

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

Public Meeting held November 20, 2025

Commissioners Present:

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

Application of Blackhorse Empire LLC  
for the Right to Begin to 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

A-2024-3050285

**OPINION AND ORDER**

**BY THE COMMISSION:**

Before the Pennsylvania Public Utility Commission (Commission) for consideration and disposition are the Exceptions filed by Bucks County Transport, Inc., Bux-Mont Transportation, Easton Coach Company, Suburban Transit Network, Inc. and Tri County Transit Service, Inc. (Bucks County, *et al.* or Joint Protestants) on June 30, 2025, to the Initial Decision (I.D.) of Administrative Law Judge (ALJ) Eranda Vero, issued on June 11, 2025, in the above-captioned proceeding. In her Initial Decision, the ALJ dismissed the Protest of Bucks County, *et al.* and approved

Blackhorse Empire LLC's (Applicant or BHE) Application for Motor Common Carrier of Persons in Paratransit Service (Application). On July 11, 2025, BHE filed Replies to Exceptions. For the reasons stated below, we shall grant the Exceptions of Bucks County, *et al.* and reverse the ALJ's Initial Decision, consistent with this Opinion and Order.

## I. History of the Proceeding

On July 16, 2024, BHE filed its Application for the right to transport as a common carrier by motor vehicle, persons in paratransit service between points in Berks, Bucks, Chester, Delaware, Huntingdon, Montgomery, and Susquehanna Counties, and the City and County of Philadelphia.<sup>1</sup> The Application was published in the *Pennsylvania Bulletin* on September 21, 2024, with a protest period deadline of October 7, 2024. 50 *Pa.B.* 435. On October 7, 2024, Bucks County, *et al.* filed a Protest to the Application.

On October 22, 2024, the Office of Administrative Law Judge (OALJ) assigned this matter to ALJ Vero. On the same date, an initial hearing notice was issued that scheduled a telephonic hearing for this matter on December 11, 2024, at 10:00 a.m. (*December 2024 Hearing*).

Also on October 22, 2024, Bucks County, *et al.* served interrogatories on the Applicant. On November 14, 2024, Bucks County, *et al.* filed a motion to compel

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<sup>1</sup> On December 29, 2023, at Docket No. A-2023-3044378, BHE received its Certificate of Public Convenience to provide group and party service. However, because that authority was subsequently cancelled by Secretarial Letter issued on September 4, 2025 at that docket, the prior grant of authority may not be relied upon as a basis to establish any presumption of financial or technical fitness to operate.

responses to the interrogatories by December 1, 2024. On December 1, 2024, BHE provided Bucks County, *et al.* with responses to the interrogatories.<sup>2</sup>

On November 26, 2024, ALJ Vero issued a prehearing order that set forth various procedural issues regarding the *December 2024 Hearing*. The *December 2024 Hearing* was held on December 11, 2024, as scheduled. Before the *December 2024 Hearing* convened on the record, BHE and Bucks County, *et al.* had an opportunity to discuss a settlement. Based on this discussion, ALJ Vero learned that BHE obtained legal representation on December 10, 2024. Therefore, ALJ Vero acknowledged that the Applicant was not prepared to present its case at the *December 2024 Hearing* and issued a continuance.

On December 13, 2024, a hearing notice was issued that scheduled a further telephonic hearing for this matter on March 5, 2025, at 10:00 a.m. (*March 2025 Hearing*).

The hearing was held on March 25, 2025, as scheduled. BHE was represented by counsel, presented three witnesses and sponsored fourteen exhibits which were admitted into the record. The Joint Protestants were represented by counsel and sponsored two exhibits which were admitted to the record.

As previously noted, the Initial Decision of ALJ Vero was issued on June 11, 2025. Therein, she approved BHE's Application and dismissed the Protest of Bucks County, *et al.* Exceptions to the Initial Decision were filed by Bucks

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<sup>2</sup> BHE did not serve its responses to the interrogatories on the Commission. At the *December 2024 Hearing*, the attorney for Bucks County, *et al.* stated that the Applicant provided the answers on the response deadline (December 1, 2024) noted in the motion to compel. Tr. at 4-5.

County, *et al.* on June 30, 2025. Replies to Exceptions were filed by BHE on July 11, 2025.

## II. Discussion

### A. Legal Standard

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, and, therefore, bears the burden of proof. *Se-Ling Hosiery, Inc. v. Margulies*, 364 Pa. 45, 70 A.2d 854 (1950) (*Se-Ling Hosiery*).

In *Se-Ling Hosiery*, 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 which is more convincing, by even the slightest degree, than the evidence presented by the opposing party. In this case, upon the Applicant’s submission of evidence sufficient to establish a *prima facie* case, the burden of going forward with the evidence, sometimes called the burden of persuasion, shifts to the Protestant. If the Protestant fails to rebut such evidence, then the Applicant prevails. If, however, the Protestant has placed into the record evidence to rebut that of the Applicant, the burden of going forward with the evidence shifts back to the Applicant. In order to then satisfy the burden of proof, the Applicant must rebut the Protestant’s evidence by a preponderance of the evidence. Although the burden of going forward with the evidence shifts from one party to the other, the burden of proof never shifts. The burden of proof with regard to the Application remains with the Applicant. *Cf., Replogle v. Pa. Elec. Co.*, 54 Pa. P.U.C. 528 (1980); *Waldron v. Phila. Elec. Co.*, 54 Pa. P.U.C. 90 (1980).

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. *Norfolk & Western Railway Co. v. Pa. PUC*, 413 A.2d 1037 (Pa. 1980); *Murphy v. Pa. Dept. of Public Welfare, White Haven Center*, 480 A.2d 382 (Pa. Cmwlth. 1984); *Erie Resistor Corp. v. Unemployment Comp. Bd. of Review*, 166 A.2d 96 (Pa. Super. 1961).

To provide motor carrier service in Pennsylvania, a person or entity must first obtain a certificate of public convenience from the Commission. 66 Pa.C.S. § 1101. A certificate of public convenience is required for any public utility to begin to offer, render, furnish or supply within this Commonwealth service of a different nature or to a different territory than that previously authorized. 66 Pa.C.S. § 1102(a)(1). A certificate of public convenience shall only be granted if it is necessary or proper for the service, accommodation, convenience or safety of the public. 66 Pa.C.S. § 1103(a).

The specific criteria the Commission uses in determining whether to approve a motor carrier application is set forth in the Policy Statement codified at Section 41.14 of the Commission's Regulations, 52 Pa. Code § 41.14, which 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 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

Finally, an existing carrier seeking to expand its authorized service territory is entitled to a presumption of fitness. As the Commission stated in *Application of First Class Transp.*, Docket No. A-2015-2466538 (Opinion and Order entered August 31, 2017), current certificate holders are entitled to a presumption of technical and financial fitness for the proposed call and demand authority. *See Rosemont Taxicab Co. v. Phila. Parking Auth.*, 68 A.3d 29, 32 (Pa. Cmwlth. 2013), (“[a] licensed utility is entitled to a presumption that it holds the technical and financial capacity and propensity to operate safely and legally, and it is the party opposing the utility’s

application that bears the burden of proof.”); *Application of Three Rivers Limousine Serv., Inc.*, Docket No. A-2014-2412182 (Order entered February 12, 2015) (paratransit certificate holder entitled to a presumption of technical and financial fitness for proposed limousine service authority); and *Application of John C. Delauter t/d/b/a Delauter’s A-1 Servs.*, Docket No. A-00122443 (Final Order entered May 18, 2007) (applicant presumed to be technically and financially capable of transporting household goods based on prior Commission determination that applicant was technically and financially capable of transporting property).

Thus, we shall consider the foregoing legal standards in our disposition of the instant Application. In addition, we note that any issue or Exception that we do not specifically address shall be deemed to have been duly considered and denied without further discussion. The Commission is not required to consider expressly or at great length each and every contention raised by a party to our proceedings. *Consolidated Rail Corp. 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).

## **B. Initial Decision**

In the Initial Decision, ALJ Vero made thirty-eight Findings of Fact, and reached seventeen Conclusions of Law. I.D. at 3-8, 21-24. The Findings of Fact and Conclusions of Law are incorporated herein by reference and are adopted without comment unless they are either expressly or by necessary implication overruled or modified by this Opinion and Order.

ALJ Vero began by reviewing whether the Applicant had established its financial fitness under 52 Pa. Code § 41.14(1). The ALJ explained that the Applicant must demonstrate sufficient capital, equipment, facilities and resources to serve the proposed territory. However, the ALJ indicated that there is no statutory or regulatory

definition pertaining to the term “sufficient capital.” Accordingly, the ALJ stated, the determination of financial fitness is within the Commission’s discretion, which may be applied on a case-by-case basis with the primary concern being the adequacy of the proposed service to the public. I.D. at 13 (citing *Application of Raymond P. Sutherland*, Docket No. A-00122346 (Order entered June 5, 2007) (*Sutherland*)).

ALJ Vero initially noted that Mr. Sylvester Thomas, one of BHE’s witnesses, is the sole member of BHE. I.D. at 13 (citing Tr. at 45, 48, Applicant Exhibit 2). The ALJ stated that on December 29, 2023, BHE had received its Certificate of Public Convenience (CPC) from the Commission for the right to transport, as a common carrier, persons in group and party service in vehicles seating more than 15 persons, at Docket No. A-6222038. I.D. at 13 (citing Tr. at 57-58). Additionally, ALJ Vero remarked that the Applicant, doing business as BHE Trucking, is licensed and permitted by the U.S. Department of Transportation to transport freight across state lines. I.D. at 13-14 (citing Tr. at 49, 51; Applicant Exhibit 5). After identifying that BHE is a certificated common carrier, the ALJ established that BHE submitted a business plan with rate schedules along with a profit and loss statement and balance sheet. I.D. at 14 (citing Tr. at 78-79; Applicant Exhibits 6, 7). Moreover, ALJ Vero stated that BHE had approximately \$15,000 to cover expenses and between \$30,000 and \$35,000 in personal funds to pay into BHE. I.D. at 14 (citing Tr. at 137-38).

Regarding equipment and facilities, the ALJ verified that the Applicant owns a building at 238 North 12th Street, Reading, Berks County, PA 19604, where its offices are located and where it plans to park all its vehicles. I.D. at 14 (citing Tr. at 45; Applicant Exhibit 3). ALJ Vero acknowledged that BHE has not purchased any vehicles for use in paratransit service while its Application is pending before the Commission. Nonetheless, the ALJ noted that the Applicant has access to a 2019 Dodge minivan with a handicap lift. ALJ Vero specified that the 2019 Dodge minivan is owned by Donald Damico, a driver for BHE, and will be kept at Mr. Damico’s home, however BHE will

keep track of this vehicle's maintenance and condition. I.D. at 14 (citing Tr. at 95-98). Further, the ALJ noted the testimony of Mr. Thomas that all of BHE's drivers have vehicles that they are willing to use for paratransit service. Based on Mr. Thomas' testimony, ALJ Vero described that vehicles owned by the Applicant's drivers will be covered by BHE's insurance while operating for the Applicant, but will be insured under the driver-owner's personal car insurance when not in use for BHE's paratransit service. I.D. at 14-15 (citing Tr. at 97, 100-01; Applicant Exhibit 17). Moreover, the ALJ noted that if the Application is approved, the Applicant plans to purchase two vehicles. I.D. at 15 (citing Tr. at 97).

ALJ Vero determined that Bucks County, *et al.* did not present evidence to overcome BHE's presumption of financial fitness as an existing operator. According to the ALJ, Mr. Thomas' testimony provided evidence of the Applicant's fitness and demonstrated that BHE has sufficient capital, equipment, facilities, and other resources necessary to serve the territory requested. I.D. at 15.

Regarding whether the Applicant had established its technical fitness pursuant to 52 Pa. Code § 41.14(2), ALJ Vero explained that technical expertise fitness is defined as: "An applicant must have the technical capacity to meet the need for the proposed service in a satisfactory fashion. An applicant must possess sufficient staff and facilities or operating skills to make the proposed service feasible, profitable and a distinct service to the public." I.D. at 15 (citing *Re Adegbola Ige t/a Globe Limousine Serv.*, 75 Pa. P.U.C. 45 (1991); *Application of William Matthew Sullivan*, Docket No. A-00118268F0001AMA (Order entered February 2, 2004); *Application of Samir Ouaquerrouch*, Docket No. A-2011-2218369 (Opinion and Order entered September 27, 2012)).

Based on the testimony of Mr. Thomas, the ALJ noted that BHE has procedures in place to screen drivers during the hiring process and to train its drivers.

ALJ Vero also highlighted that the Applicant performs monthly driver history checks and its drivers are drug tested. I.D. at 15 (citing Tr. at 80-82). The ALJ found that, in order to staff drivers for BHE's paratransit business, the Applicant will use drivers from its group and party service. I.D. at 15 (citing Tr. at 90). Next, ALJ Vero noted that Mr. Thomas believes he is capable of meeting the needs of the proposed service territory based on both his background as a paratransit driver and his current employment as Director of Operations for I Am Home Care, a home care business licensed by the Pennsylvania Department of Health with approximately 120 employees and 60 clients in the Counties of Bucks, Lehigh, Schuylkill, Montgomery, Berks, and Philadelphia. I.D. at 15-16 (citing Tr. 56-57, 67, 91, 93). Lastly, the ALJ pointed out: "... BHE has become a member of the Community Transportation Association of America and has subscribed to its Passenger Assistance, Safety and Sensitivity program (PASS), which provides driver training regarding safety, etiquette, emergencies, recordkeeping, etc." I.D. at 16 (citing Tr. at 83-84; Applicant Exhibit 12).

Utilizing the record evidence, ALJ Vero concluded that the Applicant established it has sufficient technical fitness. In contrast, the ALJ reasoned that Bucks County, *et al.* had failed to rebut the evidence presented by BHE. Thus, the ALJ found in favor of the Applicant that it has sufficient technical expertise and experience to serve Berks, Bucks, Chester, Delaware, Huntingdon, Montgomery, Susquehanna, and Philadelphia counties. I.D. at 16.

Turning to whether BHE 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, in accordance with 52 Pa. Code § 41.14(3), ALJ Vero noted the Applicant maintains \$1,000,000 liability insurance for its certificated party bus service. I.D. at 16-17 (citing Tr. at 60-61; Applicant Exhibit 4). Additionally, the ALJ noted Mr. Thomas' testimony that he will be able to expand the current insurance policy to cover BHE's paratransit service, should the Application be approved. I.D. at 17

(citing Tr. at 79-80). Hence, ALJ Vero found that BHE is able to satisfy the Commission's insurance coverage requirements. I.D. at 17.

ALJ Vero concluded that BHE satisfied the Commission's driver and vehicle safety regulations and service standards at 52 Pa. Code § 41.14(4), based on the testimony of BHE's witness, Mr. Thomas, that BHE will use TripMaster software for dispatching and tracking the maintenance of the vehicles that will be used in paratransit service. I.D. at 17 (citing Tr. at 85-89). The ALJ reasoned that the Joint Protestants did not refute the Applicant's testimony. Therefore, ALJ Vero found that BHE demonstrated that the Applicant has a plan to comply with the Commission's driver and vehicle safety regulations and service standards. I.D. at 17.

Moving to the Applicant's record of compliance with the Code and Commission orders, pursuant to 52 Pa. Code § 41.14(5), the ALJ noted Mr. Thomas' testimony that the Applicant has never had compliance issues with the Commission and that it is compliant with all the regulatory requirements for its interstate freight shipping business. I.D. at 18 (citing Tr. 61-62, 64). Bucks County, *et al.* argued that, based upon I Am Home Care's (*i.e.* Mr. Thomas' employer's) violations of standards established by the PA Departments of Health and Aging, BHE should be found to lack the propensity to operate safely and legally. I.D. at 18-19 (citing Tr. at 112-14). However, ALJ Vero found that the relationship between the Applicant and I Am Home Care is too far removed for Bucks County, *et al.* to rebut the Applicant's presumption of compliance with the Code and Commission Orders. Consequently, the ALJ found that Bucks County, *et al.* did not successfully rebut BHE's satisfactory compliance history with the Code and Commission Orders as a certificated common carrier. I.D. at 20.

Finally, consistent with 52 Pa. Code § 41.14(6), the ALJ examined whether BHE or its drivers have been convicted of a felony or crime of moral turpitude and thus remain subject to supervision by a court or correctional institution. In this regard,

ALJ Vero found that the record evidence establishes that the Applicant's drivers have not been convicted of a felony, or a crime of moral turpitude, and that BHE will require criminal background checks for all drivers. I.D. at 20 (citing Applicant Exhibit 3). Therefore, ALJ Vero found that BHE has demonstrated it has satisfied this requirement in the Commission's regulations. I.D. at 20-21.

The ALJ concluded that the Applicant met its burden of proof regarding technical and financial fitness, and that there is no evidence that the Applicant lacks the propensity to operate safely and legally. Thus, the ALJ found in favor of the Applicant and dismissed the Joint Protest of Bucks County, *et al.* I.D. at 20-21, 24.

### **C. Exceptions and Replies**

In their Exception No. 1, the Joint Protestants object to the ALJ's Finding of Fact No. 17,<sup>3</sup> 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. Tr. 96, 100-101; Applicant Exhibit 17." Exc. at 3. According to the Joint Protestants, this finding is not supported by the record evidence since the Applicant only provided an insurance identification card in the name of one of its drivers, whom BHE claims is willing to use his personal vehicle for paratransit service. Other than an averment by the Applicant's witness, Mr. Thomas, that BHE's insurance company is ready to provide insurance coverage, the Joint Protestants assert that there is no evidence that the Applicant will be able to provide insurance for vehicles that are not owned or registered in BHE's name. Exc. at 4.

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<sup>3</sup> I.D. at 5.

In their Exception No. 2, the Joint Protestants object to the ALJ's Conclusion of Law No. 17,<sup>4</sup> that "BHE has met its burden to demonstrate that its Application should be approved." According to Bucks County, *et al.*, the Applicant does not possess the necessary technical fitness to operate as a motor common carrier of persons in paratransit service. Noting that BHE applied to serve eight non-contiguous counties, Bucks County, *et al.* emphasize that the Applicant does not own or have control over any vehicles for its paratransit service. Further, Bucks County, *et al.* insist that BHE does not have sufficient financial resources to procure vehicles for the proposed service territory. Citing to the Commission's decision in *Application of R&H Transport Inc.*, Docket No. A-2023-3044692, 2024 WL 2182966 (Pa. P.U.C) (*R&H Transport*), Bucks County, *et al.* claim that the Commission denied *R&H Transport's* paratransit application where the applicant did not have vehicle assets or insurance coverage. Exc. at 5-6. Moreover, Bucks County, *et al.* note that the Commission has previously denied an application where the applicant proffered the use of a personal vehicle for paratransit service. *Id.* at 7 (citing *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*)). Bucks County, *et al.* reason that, based upon the testimony of Mr. Thomas that BHE would use its employees' personal vehicles for the paratransit service, the Application should be denied, consistent with the Commission's decision in *Libby's*. Finally, the Joint Protestants aver that the Applicant is attempting to operate its paratransit service akin to the ride-hailing service offered by Uber Technologies, Inc. or Lyft Inc., "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." According to the Joint Protestants, this contravenes paratransit authority granted by the Commission. Exc. at 7-10.

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<sup>4</sup> I.D. at 24.

In reply, BHE asserts that the Exceptions of Bucks County, *et al.* lack merit because the Applicant is an existing certificated common carrier, and therefore enjoys a presumption of technical and financial fitness. BHE stresses that it is the Joint Protestants that bear the burden of proof or the burden of rebutting the presumption of technical and financial fitness. The Applicant characterizes Bucks County, *et al.*'s exceptions as seeking to overturn the ALJ's decision, wherein the ALJ found that Bucks County, *et al.* failed to rebut the presumption that BHE, as an existing certificated common carrier, is technically and financially fit to operate as a paratransit common carrier. R. Exc. at 3-5. Further, the Applicant contends that Bucks County, *et al.*'s Exceptions lack merit because the Joint Protestants fail to acknowledge that ALJ Vero's determinations of credibility are entitled to deference. According to BHE, the ALJ found the evidence and testimony proffered by the Applicant to be credible, regarding technical and financial fitness. Therefore, the Applicant maintains that the Commission should defer to the ALJ's findings. R. Exc. at 6.

BHE also submits that ALJ Vero correctly found that Bucks County, *et al.* did not sufficiently rebut the presumption that BHE is able to secure insurance coverage for its paratransit service. The Applicant notes that the Commission follows the *Walker* rule,<sup>5</sup> which provides that properly objected hearsay evidence cannot be used to support a finding of an agency. However, BHE also notes that hearsay evidence admitted without objection *may* support a finding of the agency if it is corroborated by competent record evidence. Here, the Applicant observes that Bucks County, *et al.* did not object to the testimony of BHE's witness, Mr. Thomas, regarding insurance, which BHE argues is also corroborated by competent record evidence. Therefore, BHE claims under the *Walker* rule, Mr. Thomas' testimony about insurance coverage is sufficient to uphold the ALJ's finding that the Applicant has sufficient insurance coverage for its paratransit

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<sup>5</sup> *Walker v. Unemployment Compensation Bd. of Review*, 367 A.2d 366, 370 (Pa. Cmwlth. 1976) (*Walker*) (establishing the evidentiary rule, *i.e.*, the "Walker Rule").

service. Additionally, BHE asserts that ALJ Vero correctly found that its paratransit service does not solely rely on having its drivers use their personal vehicles. The Applicant notes the ALJ's finding found that BHE intends to purchase two vehicles for paratransit service if its Application is approved. Based on the foregoing, BHE insists that it provided ample evidence that it has insurance coverage for its existing vehicles, vehicles it intends to purchase if the Application is approved, and for its drivers' personal vehicles when they are being used for paratransit service. R. Exc. at 7-9.

Finally, the Applicant avers that Bucks County, *et al.*'s reliance on the Commission's decisions in *R&H Transport* and *Libby's* as support to show that BHE lacks technical fitness to operate a paratransit common carrier is unfounded. First, BHE notes that the Commission did not take a position on the merits of *R&H Transport*. Second, the Applicant distinguishes itself from *R&H Transport* to the extent that *R&H Transport* was not an existing common carrier entitled to a presumption of technical fitness. Third, BHE argues that *R&H Transport* did not have any vehicles or insurance, in contrast BHE, who provided proof in the instant proceeding that it has both vehicles and insurance. Fourth, the Applicant states that it provided testimony that it intends to purchase two vehicles if its Application is approved. R. Exc. at 9-11.

Similar to *R&H Transport*, BHE states that the Commission did not make a decision on the merits of the case in *Libby's*. Likewise, the Applicant notes that because *Libby's* did not have an existing common carrier authority, *Libby's* did not have a presumption of technical and financial fitness. BHE argues that Bucks County, *et al.* incorrectly asserted that the holding in *Libby's* implies that BHE is obligated to have acquired vehicles before the Commission rules on its Application. To the contrary, the Applicant asserts that it only needs to show it has financial resources to obtain vehicles for the proposed service. The Applicant further notes that Bucks County, *et al.* did not rebut BHE's financial position. Lastly, the Applicant argues that in *Libby's*, the Commission did not rule on whether personal vehicles may be used for paratransit

common carrier service if they are properly insured through the certificated entity.  
R. Exc. at 12-16.

In conclusion, BHE argues that ALJ Vero considered the record testimony and evidence and correctly found that Bucks County, *et al.* did not sufficiently rebut BHE's presumption of technical and financial fitness. Therefore, BHE submits that the Commission should affirm the Initial Decision and approve the Application. R. Exc. at 16.

#### **D. Disposition**

On consideration of the record in this proceeding, we shall grant the Exceptions of Bucks County, *et al.* and reverse the Initial Decision of the ALJ.

For the following reasons, the Commission cannot grant the Applicant a certificate of public convenience. Based on the testimony of BHE's witness, Mr. Thomas, the Applicant stated it will use personal vehicles, owned by its drivers, to provide common carrier paratransit service. Tr. at 95-100. However, our Regulations require that "Vehicles shall be owned by or leased by the certificateholder." 52 Pa. Code § 29.101(a)(5). Here, BHE is the proposed certificateholder, and must be the owner or lessee of all vehicles used to render paratransit service. Further, the record does not indicate that BHE will lease the vehicles from its drivers to comport with the leased equipment provisions of 52 Pa. Code § 29.101. We note the Applicant's statement that, if the Commission approves the Application, it plans to purchase its own vehicles, in addition to using its drivers' personal vehicles. Tr. at 134-35.

Regardless of whether BHE owns some of the vehicles used to provide paratransit service, by utilizing *any* vehicle it does not own or lease, BHE will be operating contrary to our Regulations. Therefore, the Applicant is unable to satisfy the

requirements set forth in 52 Pa. Code §41.14(4) as to: “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).”

Accordingly, we shall grant the Joint Protestants’ Exceptions, reverse the Initial Decision, and deny the Application, for failure of the Applicant to show a propensity to operate in a manner consistent with our Regulations. However, if it so chooses, BHE may file a new application with the Commission, which complies with the requirements of the Code and our Regulations.

### **III. Conclusion**

Based upon our review of the record evidence and applicable law, we shall grant the Exceptions of Bucks County, *et al.* and reverse the ALJ’s Initial Decision, consistent with this Opinion and Order; **THEREFORE,**

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

1. That the Exceptions of Bucks County Transport, Inc., Bux-Mont Transportation, Inc., Easton Coach Company, Suburban Transit Network, Inc. and Tri County Transit Service, Inc., filed on June 30, 2025, to the Initial Decision of Administrative Law Judge Eranda Vero, issued on June 11, 2025, are granted.

2. That the Initial Decision of Administrative Law Judge Eranda Vero, issued on June 11, 2025, at Docket No. A-2024-3050285, is reversed, consistent with this Opinion and Order.

3. That the Application filed by Black Horse Empire LLC, at Docket No. A-2024-3050285, is denied.

4. That the proceeding at Docket No. A-2024-3050285 be marked closed.

**BY THE COMMISSION,**

A handwritten signature in black ink, reading "Matthew L. Homsher". The signature is written in a cursive style with a large initial "M".

Matthew L. Homsher  
Secretary

(SEAL)

ORDER ADOPTED: November 20, 2025

ORDER ENTERED: November 20, 2025