

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY
COMMISSION**

Application of Granny's Helping Hands Pa, Inc. T/a Let's Go Transportation, LLC for a Certificate of Public Convenience for the right to transport persons, upon call or demand service, between points in Pennsylvania

Docket No. A-2015-2469125

**PROTEST OF
Germantown Cab Company**

TO THE PENNSYLVANIA PUBLIC UTILITY COMMISSION:

Germantown Cab Company. ("Germantown"), pursuant to the provisions of 52 Pa. Code §3.381, hereby files this protest to the application of Granny's Helping Hands Pa, Inc. T/a Let's Go Transportation, LLC ("Granny's" or "Applicant") for approval of authority to provide call or demand service between points in Pennsylvania. Germantown Cab respectfully requests that this Commission deny the instant application. In support of this protest and request, Germantown states as follows:

Germantown's Standing and Territory

1. The name and business address of Germantown Cab are:

Germantown Cab Company
800 Chestnut St
Philadelphia, PA 19107 Suite 103
856-795-5500

2. Germantown Cab is a certificated carrier authorized to provide, *inter alia*, call or demand service in portions of the City of Philadelphia, and Montgomery County to points in the said area and vice versa. Pursuant to an Order of the Commission entered August 6, 1996 at Commission Docket Number A-00 110733, Germantown is authorized:

To transport, as a common carrier, by motor vehicle, persons upon call or demand between points in the city of Philadelphia, bounded by School House Lane, Church Lane, Wister Street, Stenton Avenue, Northwestern Avenue, Ridge Avenue, Manatawanna Avenue, Hagys Mill Road, Port Royal Avenue, Cross Street, Shawmont Avenue, Umbria Street, Parker Avenue, Ridge Avenue, Walnut Lane, Wissahickon Avenue to points of beginning; and that portion of Whitemarsh Township, Montgomery County, bounded as follows: beginning on Ridge Pike; at the Springfield Township Line, northwest on Ridge Pike to Butler Pike, northeast on Butler Pike to the Whitemarsh Township line, southeast, along the Whitemarsh Township Line to Bethlehem Pike, south on Bethlehem Pike to Valley Green Road, northeast on Valley Green Road to the Whitemarsh Township Line, southwest along the Whitemarsh Township Line to Ridge Pike; and that portion of Springfield Township, Montgomery County, bounded as follows: beginning at the Springfield Township Line and Mermaid Lane, southwest on Mermaid Lane to Stenton Avenue, northwest on Stenton Avenue to the Springfield Township line, northeast, southeast, southwest and southeast along the Springfield Township Line to Mermaid Lane; and from points in the said area to points outside the area and vice versa

Pursuant to an Order of the Commission entered July 11, 2007 at Commission docket Number A-00110733F0001AMA, Germantown was also granted additional rights, inter alia:

To transport-persons, upon call or demand, from points in that portion of Whitemarsh Township, Montgomery County, bounded as follows: beginning on Ridge Pike; at the Springfield Township Line, northwest on Ridge Pike to Butler Pike, northeast on Butler Pike to the Whitemarsh Township Line, southeast, along the Whitemarsh Township Line to Bethlehem Pike, south on Bethlehem Pike to Valley Green Road, northeast on Valley Green Road to the Whitemarsh Township Line, southwest along the Whitemarsh Township Line to Ridge Pike: *So As To Permit* the transportation of persons, upon call or demand from points in that portion of Montgomery County bounded as follows: beginning at Ridge Pike on the Philadelphia and Montgomery County boundary proceeding west along that boundary to the Schuylkill River, northwest along the Schuylkill River to PA Route 363, northeast on PA Route 363 to Skippack Pike, southeast on Skippack Pike to Butler Pike, southwest to Ridge Pike to points of beginning.

A copy of the Commission's Order is appended hereto and made a part hereof as Exhibit "A".

3. The service territory sought by Applicant overlaps that of Germantown Cab. Germantown possesses the requisite legal standing to protest this application. This Commission has recognized that the controlling principle relating to standing in this type of proceeding is whether a protestant has some operating authority in actual or potential conflict with the authority sought by an applicant. *Application of Premium Taxi, LLC*, A-0012 1698 (August 25, 2006); *Application of Unique Limousine Service, Inc.*, A-0104709, F.2, Am-A (March 7, 2006). As a current certificate holder in the territory, which is the subject of this application, Germantown possesses the requisite standing to file this protest.

Granny's Helping Hands Pa, Inc. T/a Let's Go Transportation, LLC Application

4. On or about February 2, 2015, Applicant filed an application with the Commission seeking a Certificate of Public Convenience to permit it to provide service in areas presently served by Germantown Cab Company at A-0110733 and A-00110733F0001AMA

5. On or About March 5, 2015, Applicant amended its Application to include taxi service in the proposed areas of operation.

6. Notice of the filing for authority was published in the Pennsylvania Bulletin, Vol. 45, No. 14, April 4, 2015 at page 1705. According to the Notice, protests to this application are due on or before April 20, 2015. This protest is filed in response to that Notice.

7. The territory Applicant seeks is the right to begin to transport by motor vehicle, persons, upon call or demand in the Counties of Delaware, Montgomery, Chester and Bucks which implicates Germantown's assigned territory.

Applicant has Failed to Attach the Requisite Support for the Exceptional Request

8. Applicant has not attached financial information to its application. Applicant has not attached a balance sheet, projected revenue and expense statement, or any other financial information to its application that is indicative of its financial fitness to provide the proposed service. It is unclear whether the Applicant is fit to render the proposed service. Accordingly, Germantown believes and therefore avers that

Applicant does not possess the requisite financial fitness to provide service in the proposed areas.

9. Applicant has attached no information to the application relative to its technical fitness other than being a carrier with rights in areas outside the proposed service. Applicant has attached no information no information to its application that would indicate how Applicant intends to operate. Accordingly, Germantown believes and therefore avers that Applicant does not possess the requisite technical fitness to provide call or demand service in the proposed areas.

10. Applicant has provided no studies to justify the need for additional transportation vehicles in Germantown's territory.

11. Approval of this application will not serve a useful public purpose or need, but will merely duplicate existing service to the detriment of other carriers and the traveling public.

12. Applicant has not attached any statements in support of the application from individuals or entities that purport to be willing to utilize the proposed service if its application is granted.

13. No need for additional transportation exists. Germantown has not discontinued any service or failed to provide service within its operating authority. Germantown has not refused any request for service. Germantown is able and willing to provide equipment necessary to meet transportation needs. Germantown is ready, willing and able to provide service to the public.

14. The facilities and equipment of Germantown Cab and other carriers in the proposed service territory are ample to meet all of the requirements of the public affected by this application. The granting of the application will have a detrimental effect upon Germantown's existing service to the public. There is no need for the proposed service.

15. The approval of the application would be prejudicial to Germantown and the traveling public since it would authorize additional unnecessary and harmful competition into the area with the resulting loss of revenues to Germantown to the detriment of the traveling public.

16. Absent on the record presentations, Protestant does not believe there is a need for the proposed service as described in the application or lack of. In addition, there is no evidence that Applicant can meet the criteria in 52 Pa. Code § 41.14 and, thus, approval of the Application would be contrary to the public interest

17. The entry of Applicant into the field as envisioned by this application would endanger or impair the operations of existing carriers including Germantown Cab to such an extent that the granting of the authority requested would be contrary to the public interest.

The Possibility of Cure by Restrictive Amendment

19. Although Germantown Cab is unaware of any restrictive amendment that would enable it to withdraw its protest, Germantown is willing to discuss, and is agreeable to, any reasonable restriction which would not be contrary to the public interest.

Request for Identification of Witnesses

Germantown Cab hereby requests that Applicant furnish it with a list of witnesses that are prepared to testify on Applicant's behalf. Pursuant to Section 333(c) of the Public Utility Code, demand is made upon Applicant to furnish to Germantown a list of the names and addresses of the witnesses, names and addresses of the group and party that they represent and the subject matter of their expected testimony. This is a continuing request and is applicable to all witnesses to be called.

WHEREFORE, Protestant, Germantown Cab Company respectfully requests that the Commission deny the application of Granny's Helping Hands Pa, Inc. T/a Let's Go Transportation, LLC.

Respectfully Submitted,

Joseph Gabbay

Joseph Gabbay

Dated: April 20, 2015

CERTIFICATE OF SERVICE

I hereby certify that I have served a true and correct copy of the foregoing documents by United States mail, postage prepaid upon:

Rosemary Chiavetta,
Secretary Pennsylvania
Public Utility
Commission
P.O. Box 3265
Harrisburg, PA 17105-3265
(Certificate of Service, e-filing)

Let's Go Transportation, LLC

Granny's Helping Hands Pa, Inc. T/a

P.O. box 725
Lansdowne, Pa 19050

(Applicant)

(By Certified Mail, Return Receipt Requested)

BY: *Joseph Gabbay*
Joseph Gabbay
Germantown cab
102 Browning
Lane, BLDG B
Cherry Hill Nj,
08003

DATE: 4/24/2015

Exhibit A

PENNSYLVANIA PUBLIC UTILITY COMMISSION

IN THE MATTER OF THE APPLICATION OF: A-00110733

PENN CAB COMPANY

The Pennsylvania Public Utility Commission hereby certifies that after an investigation and/ or hearing, it has, by its report and order made and entered, found and determined that the granting of the application is necessary or proper for the service, accommodation, convenience and safety of the public and hereby issues to the applicant this CERTIFICATE OF PUBLIC CONVENIENCE evidencing the Commission's approval of the right to operate as a common carrier.

In Witness Whereof, The PENNSYLVANIA PUBLIC UTILITY COMMISSION has caused these presents to be signed and sealed, and duly attested by its Secretary at its office in the city of Harrisburg this 5th day of September , 1996.

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Secretary

PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA 17105-3265

Application of
Penn Cab Company

A-00110733

C O R R E C T E D
F I N A L O R D E R

The Commission by Order entered June 26, 1996 approved the decision of ALJ Cynthia W. Fordham dated May 3, 1996. That Order approved the transfer of a portion of the authority of Philly Cab Company at A-00107245, F.1 to Penn Cab Company at A-00110733. The authority to be transferred was limited to the "Germantown" neighborhood. It was clear from a review of the original authority that there were misspelled street names, or streets that did not exist. Therefore, the parties resolved this problem by correcting the language for the authority and submitted it as a stipulation. The authority in the ALJ's decision and the Commission's Order inadvertently included language from the original application which should not have been granted and was not part of the stipulation. Therefore, this corrected Order deletes the inadvertent language in the authority, i.e., all of Right No. (1), Commission Order of June 26, 1996; THEREFORE,

IT IS ORDERED:

1. That the Application filed by Penn Cab Company at A-00110733 for transfer of part of the operating authority currently held by Philly Cab Company at A-00107245, F.1 is hereby approved and that a certificate be issued granting the following right: to transport, as a common carrier, by motor vehicle, persons upon call or demand between points in the city of Philadelphia, bounded by School House Lane, Church Lane, Wister Street, Stenton Avenue, Northwestern Avenue, Ridge Avenue, Manatawana Avenue, Hagys Mill Road, Port Royal Avenue, Cross Street, Shawmont Avenue, Umbria Street, Parker Avenue, Ridge Avenue, Walnut Lane, Wissahickon Avenue to points of beginning; and that portion of Whitemarsh Township, Montgomery County, bounded as follows: beginning on Ridge Pike; at the Springfield Township Line, northwest on Ridge Pike to Butler Pike, northeast on Butler

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Pike to the Whitemarsh Township Line, southeast, along the Whitemarsh Township Line to Bethlehem Pike, south on Bethlehem Pike to Valley Green Road, northeast on Valley Green Road to the Whitemarsh Township Line, southwest along the Whitemarsh Township Line to Ridge Pike; and that portion of Springfield Township, Montgomery County, bounded as follows: beginning at the Springfield Township Line and Mermaid Lane, southwest on Mermaid Lane to Stenton Avenue, northwest on Stenton Avenue to the Springfield Township Line, northeast, southeast, southwest and southeast along the Springfield Township Line to Mermaid Lane; and from points in the said area to points outside the area and vice versa; Subject to the following condition: That all vehicles must be radio dispatched.

2. That the Applicant shall not engage in any transportation granted herein until it has complied with the requirements of the Pennsylvania Public Utility Code and the rules and regulations of this Commission relative to the filing of insurance and the filing and acceptance of a tariff establishing just and reasonable rates.

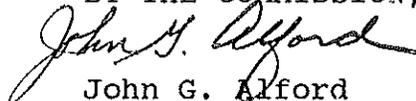
3. That the operating authority granted herein, to the extent that it duplicates authority now held by or subsequently granted to the carrier, shall not be construed as conferring more than one operating right.

4. That the certificate holder shall comply with all of the provisions of the Public Utility Code and all pertinent regulations of this Commission. Failure to comply shall be sufficient cause to suspend, revoke or rescind the rights and privileges conferred by the certificate.

5. That in the event the Applicant has not, on or before sixty (60) days from the date of service of this Order, complied with the requirements set forth above, the application shall be dismissed without further proceedings.

6. That upon compliance with this Order, the right granted the transferor, Philly Cab Company, to operate in portions of Philadelphia and Montgomery Counties, at A-00107245, F.1, be cancelled and the record be marked closed.

BY THE COMMISSION,



John G. Alford
Secretary

(SEAL)

ORDER ENTERED: JUL 25 1996

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Application of Penn : Docket No.
Cab Company : A-00110733

INITIAL DECISION

Before
CYNTHIA WILLIAMS FORDHAM
Administrative Law Judge

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HISTORY OF THE PROCEEDING

On March 8, 1993, the Penn Cab Company ("Applicant") filed an application with the Pennsylvania Public Utility Commission ("Commission") to transfer part of the rights held by Philly Cab Co. under the certificate of public convenience at A-00107245, F.1. The application is for the right to begin to transport (1) persons between points in that part of Philadelphia bounded by Washington Lane, Cheltenham Avenue, City Line, Stenton Avenue, Northwestern Avenue and Wissahickon Avenue at specified rates for use of the vehicle (regardless of the number of passengers carried or the lapse of time) and from points in that area to points outside thereof, and from points outside the city of Philadelphia to points in the area at hourly rates, with a minimum charge of two dollars (\$2.00), all transportation to be in answer to calls made either in person or by telephone at the certificate holder's stand located at 529 West Sedgwick Street in the city of Philadelphia; and (2) to transport, as a common carrier, by motor vehicle, persons upon call or demand between points in the city of

Philadelphia bounded by School Lane, Church Lane, Wister Street, Stenton Avenue, Northwestern Avenue, Ridge Avenue, Mannawanna Avenue, Hagey Street, Port Royal Avenue, Cross Street, Shawmont Avenue, Umbria Street, Parker Avenue, Ridge Avenue, Walnut Lane and Wissahickon Avenue, and that portion of Whitemarsh Township, Montgomery County bounded by County Line, Ridge Avenue, Butler Pike and Bethlehem Pike, and that portion of Springfield Township, Montgomery County bounded by Mermaid Lane, Stenton Avenue, Valley Green Road and Limekiln Pike, and from points in the said area to points outside the area, and vice versa, in answer to calls made either in person or by telephone to the certificate holder's stand located at the Chestnut Hill Station of the Reading Company or the premises located at 45 East Chestnut Hill Avenue, city of Philadelphia; which is to be a transfer of part of the rights under the certificate issued at A-00107245, F.1, to Philly Cab Company; a corporation of the Commonwealth of Pennsylvania, subject to the same limitations and conditions.

This transfer will give the applicant authority to operate taxicabs for which medallions have not been issued and for which P numbers have not been assigned.

In its order adopted on September 23, 1993, the Commission questioned whether 66 Pa. C.S. §2404 applied to this situation. The Commission noted that this was the first transfer application designed to allow taxicabs without medallions and P numbers to operate in sections of Philadelphia. Consequently, the Commission ordered that the application be assigned to the Office

of Administrative Law Judge for public hearing and that the Law Bureau participate as a party.

A hearing in this matter was scheduled to be held on May 18, 1994 at 10:00 a.m. in the Philadelphia State Office Building with Administrative Law Judge Cynthia Williams Fordham as the presiding officer. The hearing was cancelled because the parties had reached an agreement. On July 18, 1994, the Administrative Law Judge received a Stipulation of Facts and Consent Agreement executed by Jacob Gabbay, President of Penn Cab Co., Richard M. Meltzer, Esquire, attorney for Penn Cab Co. and Janet M. Sloan and Rhonda L. Daviston, Assistant Counsels for the Commission's Law Bureau. By Order, dated August 8, 1994, the Administrative Law Judge did not approve the Stipulation of Facts and Consent Agreement and instructed that the application be scheduled for a hearing.

A hearing in this matter was held on October 14, 1994. The Applicant was represented by Richard M. Meltzer, Esquire. The Applicant presented nine witnesses including: Jacob Gabbay, one of the Applicant's owners; Paul Kenney, Sr.; the Applicant's manager, five drivers and one customer. Janet M. Sloan, Esquire and Rhonda L. Daviston, Esquire represented the Law Bureau. The Law Bureau presented two witnesses, Barry Ernst, Director of the Commission's Bureau of Transportation, and Sant Harrison, Philadelphia Regional Manager for the Commission's Bureau of Transportation and Safety. The record was held open in light of the pending investigation into the future need for taxicabs in Philadelphia, I-920022, and for

submission of additional documentary evidence if necessary.¹ The Applicant and the Law Bureau filed main briefs. The record was closed on December 22, 1995. The record was reopened on April 3, 1996 to allow the parties to submit a stipulation containing corrected language for the existing operating authority. The parties submitted the stipulation on May 2, 1996.

The record in this case consists of 128 pages of transcribed testimony, one exhibit and the stipulation of the parties.

SUMMARY OF EVIDENCE

The relevant portions of the summary of testimony will be included in the Findings of Fact and in the Discussion. The witnesses and exhibits in this proceeding were as follows:

Jacob Gabbay, one of the Applicant's owners, testified about the nonmedallioned cabs operated by Philly Cab and the possible conversion to medallioned taxicabs.

Paul Kenney, Sr., the President of P. I. Kenney Associates and former Commission employee, testified about the authority that the Applicant wants the Commission to transfer. He sponsored Applicant Exhibit 1 - a map of the service territory.

Menachen (Mike) Reibenbach, the manager of the nonmedallioned Philly taxicabs, testified.

¹ The Applicant's request to have an additional witness testify was withdrawn.

Earl Huling, a Philly Cab driver for 3 years and part-time dispatcher, testified about the need for the service in Germantown, the importance of having drivers who are familiar with the area, the vehicles and the amount of business the nonmedallioned taxicabs have.

Evelyn Whiting, a Philly Cab driver for 2½ years and Germantown resident, testified.

William Jackson, a Philly Cab driver for 3 years and a Germantown resident, testified.

Bazil Malone, a Philly Cab driver for 2 years and a Germantown resident, testified.

Donald Marshall, a Philly Cab driver for 2 years and a Germantown resident, testified.

Joan Shumaker, a Mount Airy resident who has been a customer of Philly Cab for at least three years, testified about the reliability of the service and her dissatisfaction with other taxicab companies.

Barry Ernst, the Director of the Commission's Bureau of Transportation, testified about the origin of Penn Radio authority, the Commission's directive that service in the Germantown area should not be diminished, the number of medallioned taxicabs in Philadelphia and the authority of two suburban taxicab companies that have authority to operate in specified areas of Philadelphia.

Sant Harrison, the Regional Manager of the Commission's Bureau of Transportation and Safety in Philadelphia and a Germantown resident, testified about the difficulty of driving in

Germantown, Philly Cab's voluntary compliance with some of the requirements in the Medallion Act, the need for the service and the advantages of conversion to medallioned taxicabs.

FINDINGS OF FACT

1. The Applicant is Penn Cab Company, 4800 Germantown Avenue, Philadelphia, PA.

2. Jacob Gabbay and his brother, Morris Gabbay, are the owners of Penn Cab Company (Tr. 96, 108).

3. At the time of the hearing the Gabbays were operating 42 nonmedallioned taxicabs under the Philly Cab Company rights that they sought to transfer to Penn Cab Company (Tr. 30).

4. In addition to operating nonmedallioned taxicabs, Philly Cab Company was operating 36 medallioned taxicabs at the time of the hearing (Tr. 19, 29, 40).

5. The Gabbays filed this application to separate the nonmedallioned taxicabs from the medallioned taxicabs (Tr. 109).

6. At the time of the hearing Barry Ernst was the Director of the Commission's Bureau of Transportation (Tr. 23, 24).

7. Pursuant to a Commission Order, adopted August 28, 1987, Docket No. A-00107245, the Commission granted 30 city-wide taxicab certificates to Philly Cab Company (Tr. 96).

8. The Commission is authorized to issue 1,600 medallion taxicabs in the City of Philadelphia (Tr. 31).

9. At the time of the hearing 1,444 medallioned taxicabs were operating in the City of Philadelphia (Tr. 31).

10. Around 1990 the number of medallioned taxicabs reached a peak of 1,535 (Tr. 34, 35).

11. In the Pennsylvania Public Utility Commission's Investigation Into The Future Need For Taxicabs in Philadelphia, I-00920022, the Commission ordered that no additional medallions should be issued except in the case of former owners who lost their certificates after purchasing them from Metro Transportation Company (Order entered March 23, 1995).

12. Walsh Cab Company and Bennett Taxicab are suburban taxicab companies that operate in sections of Philadelphia without a medallion (Tr. 30, 41, 42).

13. Walsh Cab Company primarily operates outside of Philadelphia (in Jenkintown) and occasionally in the Germantown and Cheltenham areas (Tr. 30, 41, 42, 120).

14. Bennett Taxicab operates substantially in the suburbs and the City Line area (Tr. 30, 42, 63).

15. Philly Cab's nonmedallioned taxicabs provide service to the following areas in Philadelphia: Germantown, Mount Airy, West Oak Lane, Chestnut Hill, Roxborough and Manayunk (Tr. 47, 69).

16. It is very difficult for a driver unfamiliar with the Germantown area to locate various streets, especially the one block streets (Tr. 46, 70, 71).

17. Philly Cab has little or no competition in providing service in the Germantown area (Tr. 44, 50, 78, 79, 92).

18. Sant Harrison is the Philadelphia Regional Manager of the Commission's Bureau of Transportation and Safety (Tr. 45).

19. Philly Cab has voluntarily complied with the inspection requirements, driver certification and tariff provisions in the Medallion Act (Tr. 48, 52-54, 60, 76).

20. Philly Cab has not complied with the vehicle age requirement and the protective barrier provision in the Medallion Act (Tr. 48, 76, 99).

21. Philly Cab does not pay the annual medallion fee (Tr. 58).

22. Philly Cab has a radio dispatch operation at 4800 Germantown Avenue in Philadelphia (Tr. 28, 62, 71, 72).

23. During the first two weeks in the month, Philly Cab's dispatches reach 1,500 in a 24 hour period (Tr. 72, 73).

24. Philly Cab transports regular customers to work, medical appointments, shopping facilities and school (Tr. 74).

25. Philly Cab has corporate accounts with nursing homes, a rehabilitation center and other facilities (Tr. 73).

26. During the 11:00 p.m. to 7:00 a.m. shift, Philly Cab receives as many as 200 calls for service (Tr. 78).

27. The name of some of the streets in the operating authority held by Philly Cab Company (A-00107245, F.1) are misspelled and some streets do not exist (Tr. 114-117; App. Ex. 1).

28. The parties have submitted a stipulation which reflects the current operating authority of Philly Cab Company (Stip.).

DISCUSSION

This transfer application was filed to separate Philly Cab's medallioned taxicabs from its nonmedallioned taxicabs. No protests were filed. The Commission requested that hearings be held to determine whether the authority should be cancelled as inconsistent with section 2404 of the Public Utility Code and the attendant regulations.

The options are to cancel the authority, transfer the authority as it currently exists, or convert the authority to medallioned taxicab service.

The Commission Should Not Cancel the Authority Sought by Penn Cab Company

The Commission has questioned whether 66 Pa. C.S. §2404 is applicable to the authority that Penn Cab is asking the Commission to transfer. That section reads as follows:

§2404. Certificate and medallion required

(a) **Procedure.** - A vehicle may not be operated as a taxicab in cities of the first class unless a certificate of public convenience is issued authorizing the operation of the taxicab and a medallion is attached to the hood of the vehicle. Prior to the issuance of a medallion, the certificate holder shall have its vehicle inspected by the commission. The commission shall require, by order or regulation, that each medallion holder submit to a periodic vehicle inspection of its taxicab by commission personnel to ensure that the vehicle meets the requirements of this title and commission regulations. Commission inspection requirements shall be in addition to the vehicle requirements set forth in Title 75 (relating to vehicles). Commission inspection and recording requirements shall be established by regulations. No vehicle which is more than six years old shall continue in operation as a taxicab. Notwithstanding the foregoing, the commission may

authorize the operation of antique vehicles in call or demand service in such circumstances as the commission may deem appropriate. Each medallion shall not be removed from a vehicle without prior notification to and permission of the commission. A medallion authorizes operation of a vehicle as a taxicab only for the fiscal year for which the medallion is issued.

(b) Protective barrier. - Each taxicab in cities of the first class shall be equipped with a protective barrier for the protection of the driver, separating the front seat from the back seat. The commission may provide for additional driver protection measures by order or regulation.

Although section 2404 of the Public Utility Code, 66 Pa. C.S. §2404, does not refer to citywide authority, 66 Pa. C.S. §2402 indicates that the medallion system was established in cities of the first class to provide holders of certificates of public convenience which authorize citywide call or demand service the opportunity to upgrade and improve the taxicabs. Pursuant to section 2402 and the Commission's regulations at 52 Pa. Code §30.11, holders of certificates of public convenience which authorize citywide call or demand service in Philadelphia have been required to obtain a medallion before operating in Philadelphia. The Medallion Act does not mention vehicles operated by a holder of a certificate of public convenience authorizing call or demand service in enumerated sections of Philadelphia. Both Mr. Ernst and Mr. Harrison testified that the Philly Cab Company's nonmedallioned taxicabs have voluntarily complied with certain requirements of the Medallion Act (Tr. 39, 40, 48). Philly Cab brings its vehicles to the Commission's office for an annual inspection, requires its

drivers to be certified, and uses the same tariff used by the medallioned taxicabs (Tr. 48).

Messrs. Ernst and Harrison agree that Philly Cab's nonmedallioned taxicabs cannot be required to comply with the Medallion Act because they are not utilized in citywide call or demand service (Tr. 39, 52-54).

It should be noted that each certificate of public convenience to provide taxicab service in Philadelphia permits the operation of one taxicab. Section 1103(c) of the Public Utility Code, 66 Pa. C.S. §1103(c). Philly Cab's authority is different because one certificate allows it to operate an unlimited number of vehicles. See Application of Philly Cab Co., A-00107245, Order entered August 28, 1987.

In Pa. Public Utility Commission v. Genco Services, Inc. t/a Cheldon Radio Cab Co., Inc., Docket No. A-00106517C912 (Order entered March 27, 1992), the Respondent's certificate of public convenience authorized it to operate in Montgomery County and the northeast section of Philadelphia. The Respondent objected to inspections conducted by Philadelphia Police Officers assigned to the Taxi Enforcement Unit. The Special Agent² reviewed the statute, regulations and the administrative interpretations of the Medallion Act and recommended that the Commission rule that the requirements set forth in the Medallion Act were not applicable to holders of certificates of public convenience without citywide

² At that time the undersigned Administrative Law Judge was Special Agent Williams.

authority. R.D. at pp. 12, 13. Since the Respondent admitted that it violated the general requirements for all taxicabs, the complaint could be sustained without deciding whether the Medallion Act applied to the Respondent. The Commission adopted the Recommended Decision and sustained the complaint.

The evidence in the record demonstrates that the Commission has historically directed the companies with this authority to provide service to designated areas in Philadelphia. Barry Ernst testified about a Commission investigation into the adequacy of taxicab service in Philadelphia that was docketed as I.D. 171 (Order entered May 16, 1977) (Tr. 25-26). The application of Penn Radio Cab, the predecessor certificate holder to Philly Cab Company, was one of over 100 applications that were consolidated into ID 171 (Tr. 27). Penn Radio was granted 30 city-wide certificates with certain conditions attached in 1979 at Docket No. A-00092657, F.1 Am-A, Order entered April 27, 1979. The Commission ordered Penn Radio to continue to operate its neighborhood authority in addition to the city-wide operation (Tr. 28). Mr. Ernst stated that the Commission specifically divided Penn Radio's authority into a citywide operation and service in a specific section of Philadelphia (Tr. 29).

In 1987 Philly Cab Company acquired the rights held by Penn Radio (Tr. 96). The transfer application was docketed at A-00107245. In its Order, entered on August 28, 1987, the Commission ordered Philly Cab to distinguish the thirty vehicles authorized to provide citywide service from the vehicles authorized

to provide service in specified areas. Jacob and Morris Gabbay were listed as the officers and owners of Philly Cab Company.

On April 4, 1990, the Medallion Act, 66 Pa. C.S. §§2401 et seq was passed. Pursuant to the Medallion Act each taxicab with citywide authority was required to have a certificate of public convenience and a medallion. 66 Pa. C.S. §2404. The Commission did not revoke Philly Cab's authority at that time or request that the certificate be converted to citywide authority.

Several witnesses testified that Walsh Cab Company and Bennett Cab Company also have authority to operate in portions of Philadelphia (Tr. 41, 42, 120). They do not have medallions and do not comply with the Medallion Act (Tr. 39). The evidence in the record indicates that they operate in Philadelphia occasionally (Tr. 30). Philly Cab is unique because it provides service to its certificated section of Philadelphia twenty-four hours a day (Tr. 78).

The concern that this transfer could set a precedent for having neighborhood taxicab companies is not supported by the evidence. This authority is for service to be provided in delineated sections of Philadelphia and the suburbs. Since the passage of the Medallion Act, new requests to operate only in Philadelphia would be governed by the Medallion Act. Existing authority to operate in the specific neighborhoods and the suburbs should not be cancelled.

Some of the witnesses testified that it is difficult to find locations in Germantown (Tr. 46, 56, 70, 87-92). The

nonmedallioned taxicabs hire drivers who are residents of Germantown and who are familiar with the area (Tr. 68, 69, 87, 88, 89, 90, 91, 92, 94). The record is replete with evidence concerning the need for the service (Tr. 34, 37, 38, 50, 51, 72-74, 78, 87-92). A driver testified that at the beginning of the month dispatches or wires for Philly Cab reach 1,500 in a twenty-four hour period (Tr. 72, 73). Eighty to ninety percent of Philly Cab's customers utilize the service two to three times a week (Tr. 74). Other taxicab companies do not service Philly Cab's certificated area because the drivers are unfamiliar with the area and many of the trips are short (Tr. 78, 79).

Joan Shumaker, the Philly Cab customer, testified that she had used the services for at least three years (Tr. 92). She was dissatisfied with the waiting time and inaccuracy of the meter in other taxicabs (Tr. 94). The service provided by Philly Cab is reliable and reasonable (Tr. 94).

All of the witnesses, including Messrs. Ernst and Harrison, testified that it would be disastrous if the authority was cancelled (Tr. 34, 44, 51, 72-74, 87-92). It should be noted that the authority also allows service to be provided in certain suburban areas. Earl Huling, one of the drivers, testified that Philly Cab provides services to the suburban areas at night when the suburban taxicab companies are not operating (Tr. 78). The Commission has recognized that most taxicab companies with citywide authority have taxicabs sitting at the airport and Center City while people in the neighborhoods receive inadequate service (Tr.

28, 32). Pennsylvania Public Utility Commission's Investigation Into The Future Need For Taxicabs in Philadelphia, I-00920022 (Order entered Mach 23, 1995, p. 10, I.D. pp. 5, 7). Consequently, it would not be in the best interest of the public to cancel this authority.

The Law Bureau supports the transfer of the existing rights of Philly Cab. The Law Bureau does not advocate the cancellation of the "neighborhood" authority. The Law Bureau agrees that this authority fulfills a public need.

Conversion to Medallions Is
Problematic at This Time

Conversion of Philly Cab's "neighborhood authority" would solve numerous problems. Mr. Harrison testified that his office receives complaints when a nonmedallioned taxicab is seen picking up or discharging a customer in Center City (Tr. 49, 50). Although Philly Cab Company has voluntarily complied with the inspection, driver certification and tariff provisions in the Medallion Act, it does not comply with the vehicle age requirement and the requirement of installing protective barriers (Tr. 52-58). Mr. Harrison stated that enforcement would be easier if the authority was converted. The distinction between regulating medallioned and nonmedallioned taxicabs would be eliminated (Tr. 57, 58). He suggested sixty medallioned taxicabs (Tr. 52).

Mr. Gabbay said that sixty medallioned taxicabs would provide him with an adequate number of vehicles to continue to provide service to the current service area (Tr. 106). He

mentioned that he would have to purchase new vehicles since most of the current vehicles are more than six years old (Tr. 99). In addition, the company would have to install partitions in the vehicles (Tr. 76). The medallion fees paid by the company would defray the expenses associated with the Commission's inspections of Philly Cab's vehicles and certification of the drivers (Tr. 58).

There is evidence in the record to show that the neighborhood service would continue if citywide authority was granted. The drivers have regular customers, little or no competition and they make about \$100 a day in the neighborhood (Tr. 52, 56, 57, 73, 75, 76, 87-92).

Nevertheless, this was advertised as a transfer of an existing authority. The Law Bureau contends that the application would have to be republished in the Pennsylvania Bulletin since the nature of the authority would be changed. The application could be protested by current medallion holders, former medallion holders and potential medallion holders.

Moreover, in the Investigation, I-00920011, the Commission found that additional medallions were not needed in Philadelphia. During the investigation, it was revealed that there is a list of approximately 500 applicants who have been waiting for over ten years to get a certificate of public convenience in Philadelphia.

In light of the procedural problems and potentially detrimental effect on existing medallion holders, I recommend that the authority not be converted to medallions at this time.

The Existing Authority Should Be Transferred

I recommend that the Commission approve the transfer of the current authority held by Philly Cab. During the hearing Paul Kenney testified that the authority contained several misspelled streets or streets that did not exist (Tr. 114-199; App. Ex. 1). He mentioned that Manatawna Avenue was misspelled, Cross Street should be removed, Limekiln Pike was misspelled and should be removed since it is not in Springfield Township (Tr. 117, 188). Therefore, he mentioned that the correction of the existing territory needed to be approved by the Commission (Tr. 119; App. Ex. 1).

Furthermore, it is clear that Philly Cab uses radio dispatch (Tr. 72). The authority indicates that calls are to be made to the certificate holder's stand or to designated locations.

The parties have submitted a stipulation which corrects the existing language and describes the current authority held by Philly Cab Company.

CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the parties and the subject matter of this proceeding.

2. The Applicant has proven by a preponderance of the evidence that approval of the transfer will serve a useful public purpose and will be responsive to a public demand. 52 Pa. Code §41.14(a).

3. The provisions of the Medallion Act, especially 66 Pa. C.S. §§2402 and 2404(a), do not require the cancellation of the existing authority sought by the Applicant.

4. The transfer application should be approved.

ORDER

THEREFORE,

IT IS ORDERED:

1. That the Application filed by Penn Cab Company at A-00110733 for transfer of part of the operating authority currently held by Philly Cab Company at A-00107245, F.1 is hereby approved and that a certificate be issued granting the following rights: to transport (1) persons between points in that part of Philadelphia bounded by Washington Lane, Cheltenham Avenue, City Line, Stenton Avenue, Northwestern Avenue and Wissahickon Avenue and from points in that area to points outside thereof, and from points outside the city of Philadelphia to points in the area; and (2) to transport, as a common carrier, by motor vehicle, persons upon call or demand between points in the city of Philadelphia, bounded by School House Lane, Church Lane, Wister Street, Stenton Avenue, Northwestern Avenue, Ridge Avenue, Manatawana Avenue, Hagys Mill Road, Port Royal Avenue, Cross Street, Shawmont Avenue, Umbria Street, Parker Avenue, Ridge Avenue, Walnut Lane, Wissahickon Avenue to points of beginning; and that portion of Whitemarsh Township, Montgomery County, bounded as follows: beginning on Ridge Pike; at the Springfield Township Line, northwest on Ridge

Pike to Butler Pike, northeast on Butler Pike to the Whitemarsh Township Line, southeast, along the Whitemarsh Township Line to Bethlehem Pike, south on Bethlehem Pike to Valley Green Road, northeast on Valley Green Road to the Whitemarsh Township Line, southwest along the Whitemarsh Township Line to Ridge Pike; and that portion of Springfield Township, Montgomery County, bounded as follows: beginning at the Springfield Township Line and Mermaid Lane, southwest on Mermaid Lane to Stenton Avenue, northwest on Stenton Avenue to the Springfield Township Line, northeast, southeast, southwest and southeast along the Springfield Township Line to Mermaid Lane; and from points in the said area to points outside the area and vice versa; Subject to the following condition: That all vehicles must be radio dispatched.

2. That the Applicant shall not engage in any transportation granted herein until it has complied with the requirements of the Pennsylvania Public Utility Code and the rules and regulations of this Commission relative to the filing of insurance and the filing and acceptance of a tariff establishing just and reasonable rates.

3. That the operating authority granted herein, to the extent that it duplicates authority now held by or subsequently granted to the carrier, shall not be construed as conferring more than one operating right.

4. That the certificate holder shall comply with all of the provisions of the Public Utility Code and all pertinent regulations of this Commission. Failure to comply shall be

sufficient cause to suspend, revoke or rescind the rights and privileges conferred by the certificate.

5. That in the event the Applicant has not, on or before sixty (60) days from the date of service of this Order, complied with the requirements set forth above, the application shall be dismissed without further proceedings.

6. That upon compliance with this Order, the right granted the transferor, Philly Cab Company, to operate in portions of Philadelphia and Montgomery Counties, at A-00107245, F.1, be cancelled and the record be marked closed.

Date:

May 3, 1996

Cynthia Williams Fordham
CYNTHIA WILLIAMS FORDHAM
Administrative Law Judge