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May 5, 2015

VIA ELECTRONIC FILING

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

Re: Application of Preferred Medical Transport, Inc.
Docket Number: A-2015-2468549

Dear Secretary Chiavetta:

Enclosed for filing is the Joint Motion of Applicant Preferred Medical Transport, Inc. and Joint Protestants Suburban Transit Network, Inc. t/a TransNet, Willow Grove Yellow Cab Co., Inc. t/d/b/a Bux-Mont Yellow Cab and t/d/b/a Bux-Mont Transportation Services Co., Easton Coach Company t/a Norristown Transportation Company, Tri County Transit Service, Inc., and Bucks County Transport, Inc. for Entry of Protective Order in the above-captioned matter.

Very truly yours,

Christine Soares

CS
Enclosure

cc: Charles E. Rainey, Jr., Chief Administrative Law Judge (*via email*) (w/encl.)
John J. Dorsey, Jr., Esquire (*via email*) (w/encl.)
Barnett Satinsky, Esquire (*via email*) (w/encl.)

A Pennsylvania Limited Liability Partnership

California Colorado Connecticut Delaware District of Columbia
Florida Nevada New Jersey New York Pennsylvania

**COMMONWEALTH OF PENNSYLVANIA
BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

IN RE: APPLICATION OF : **DOCKET A-2015-2468549**
PREFERRED MEDICAL :
TRANSPORT, INC. :

**JOINT MOTION OF APPLICANT PREFERRED MEDICAL TRANSPORT, INC. AND
JOINT PROTESTANTS SUBURBAN TRANSIT NETWORK, INC. T/A TRANSNET, WILLOW
GROVE YELLOW CAB CO., INC. T/D/B/A BUX-MONT YELLOW CAB AND T/D/B/A BUX-
MONT TRANSPORTATION SERVICES CO., EASTON COACH COMPANY T/A
NORRISTOWN TRANSPORTATION COMPANY, TRI COUNTY TRANSIT SERVICE, INC.
AND BUCKS COUNTY TRANSPORT, INC. FOR ENTRY OF A PROTECTIVE ORDER**

Pursuant to 52 Pa. Code § 5.365, Applicant Preferred Medical Transport, Inc.

(“Applicant”) and Joint Protestants Suburban Transit Network, Inc. t/a TransNet, Willow Grove Yellow Cab Co., Inc. t/d/b/a Bux-Mont Yellow Cab and t/d/b/a Bux-Mont Transportation Services Co., Easton Coach Company t/a Norristown Transportation Company, Tri County Transit Service, Inc., and Bucks County Transport, Inc. (collectively “Joint Protestants”), by their attorneys, hereby request that the attached Protective Order be entered in the above-captioned proceeding. In support thereof, the parties represent as follows:

1. On February 20, 2015, Applicant filed the instant Application with the Commission for approval to begin operating as a common carrier for transportation of ambulatory and non-ambulatory people for dialysis and various other appointments from points originating in Montgomery, Bucks and Philadelphia Counties to points within Pennsylvania.
2. Notice of the Application was published in the Pennsylvania Bulletin on March 29, 2015.
3. On March 24, 2015, Joint Protestants filed a Joint Protest to the Application.
4. The proceeding has not yet been assigned to an Administrative Law Judge.

5. The parties to this proceeding have engaged in discovery.

6. Proprietary Information within the definition of 52 Pa. Code § 5.365 has been requested during the course of this proceeding, which justifies the issuance of a Protective Order.

7. Under 52 Pa. Code §§ 5.362(a)(7) and 5.365, the Office of Administrative Law Judge or the Commission may issue a Protective Order to limit or prohibit disclosure of confidential commercial information where the potential harm to a participant would be substantial and outweighs the public's interest in having access to the confidential information.

8. In applying this standard, relevant factors to be considered include: F the extent to which disclosure would cause unfair economic or competitive damage; the extent to which the information is known by others and used in similar activities; and the potential value of such information to the participant and the participant's competitors. 52 Pa. Code § 5.365(a)(1)-(3).

9. Limitation on the disclosure of "Proprietary Information" will not prejudice the rights of the participants, nor will such limitation frustrate the prompt and fair resolution of this proceeding.

10. Paragraph 4 of the attached proposed Protective Order sets the parameters for production of proprietary information. This includes access to one corporate representative selected by each corporate party to this proceeding and a party's expert.

11. Paragraph 12 of the attached proposed Protective Order protects against overly broad designations of protected information by giving all parties the right to question or challenge the confidential or proprietary nature of the "Proprietary Information."

12. The attached proposed Protective Order will protect the parties' confidential information while allowing them to use such information for purposes of the instant proceeding.

13. The proposed Protective Order balances the interests of the parties, the public and the Commission.

WHEREFORE, for all the foregoing reasons, Applicant Preferred Medical Transport, Inc. ("Applicant") and Joint Protestants Suburban Transit Network, Inc. t/a TransNet, Willow Grove Yellow Cab Co., Inc. t/d/b/a Bux-Mont Yellow Cab and t/d/b/a Bux-Mont Transportation Services Co., Easton Coach Company t/a Norristown Transportation Company, Tri County Transit Service, Inc., and Bucks County Transport, Inc. request that the Commission grant this Joint Motion and issue the attached Protective Order.

John J. Dorsey, JR

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Bux-Mont Yellow Cab and t/d/b/a/ Bux-Mont
Transportation Services Co., Easton Coach
Company t/a Norristown Transportation
Company, Tri County Transit Service, Inc.,
and Bucks County Transport, Inc.

Dated: May 1, 2015

Dated: May 5, 2015

EXHIBIT "A"

**COMMONWEALTH OF PENNSYLVANIA
BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

IN RE: APPLICATION OF : **DOCKET A-2015-2468549**
PREFERRED MEDICAL :
TRANSPORT, INC. :

PROTECTIVE ORDER

THEREFORE,

IT IS ORDERED:

1. This Protective Order is hereby granted with respect to all materials and information identified at Ordering Paragraphs 2 and 3 which are filed with the Commission, produced in discovery, or otherwise presented during these proceedings. All persons now and hereafter granted access to the materials and information identified in Ordering Paragraphs 2 and 3 shall use and disclose such information only in accordance with this Order.

2. The materials subject to this Order are all correspondence, documents, data, information, studies, methodologies and other materials in any form that a party or an affiliate of a party furnishes in this proceeding pursuant to the Commission's rules and regulations, discovery procedures or cross-examination which are claimed to be of a proprietary or confidential nature and which are designated "PROPRIETARY" or "CONFIDENTIAL" (hereinafter collectively referred to as "Proprietary Information").

3. Proprietary Information shall be made available to the Commission and its Staff for use in this proceeding. For purposes of filing, to the extent that Proprietary Information is placed in the Commission's report folders, such information shall be handled in accordance with routine Commission procedures inasmuch as the report folders are not subject to public disclosure. To the extent that Proprietary Information is placed in the Commission's testimony or document folders, such information shall be separately bound, conspicuously marked, and accompanied by a copy of this Order. Public inspection of Proprietary Information shall be permitted only in accordance with this Order.

4. Proprietary Information shall be made available to counsel of record in this proceeding pursuant to the following procedures:

a. Proprietary Information. To the extent required for participation in this proceeding, a party's counsel may afford access to Proprietary Information made available by another party ("the Producing Party") to:

- i. The Commission at any hearing in this proceeding or in connection with motions filed in this proceeding;
- ii. Counsel (including "in-house" counsel) to the named parties to this action and the paralegal, clerical and secretarial staff employed by such counsel; provided however, any in-house counsel shall not share any Proprietary Information with anyone other than counsel of record, or persons authorized under this Order.
- iii. court reporters;
- iv. any witness during the course of that witness's deposition;
- v. experts and/or advisors consulted by the named parties or their counsel in connection with this action, whether or not retained to testify at trial; provided that prior to any such disclosure counsel for the party making the disclosure shall deliver a copy of this Protective Order to the expert and/or advisor, shall explain its terms to the expert and/or advisor, and shall secure the signature of the expert and/or advisor in the form attached to this Order and designated as "Appendix A". It shall be the further obligation of counsel, upon learning of any breach or threatened breach of this Protective Order by any expert and/or advisor, promptly to notify opposing counsel of such breach or threatened breach;
- vi. one corporate representative selected by each corporate party to this litigation; and
- vii. any other person as to whom the producing party agrees in writing prior to

disclosure.

b. For purposes of the foregoing paragraph, disclosure to a party's expert(s) shall be subject to the following additional restrictions:

i. Such expert(s) may not hold any of the following positions with any competitor of the producing party: (a) an officer, board member, significant stockholder, partner, owner (other than owner of stock) or an employee of any competitor of the producing party who is primarily involved in the pricing, development, and/or marketing of products or services that are offered in competition with those of the producing party; or (b) an officer, board member, significant stockholder, partner, owner (other than owner of stock) of any affiliate of a competitor of the producing party; provided, however, that any expert shall not be disqualified on account of being a stockholder, partner, or owner unless his/her interest in the business constitutes a significant potential for violation of the limitations of permissible use of the Proprietary Information. For purposes of this Order, stocks, partnership, or other ownership interest valued at more than \$10,000 or constituting more than a 1% interest in a business establishes a significant potential for violation.

ii. If a party's independent expert, another member of the independent expert's firm or the independent expert's firm generally also serves as an expert for, or as a consultant or advisor to a competitor or any affiliate of a competitor of the Producing Party, said independent expert must: (1) advise the Producing Party of the competitor's or affiliate's name(s); (2) make reasonable attempts to segregate those personnel assisting

in the expert's participation in this proceeding from those personnel working on behalf of a competitor or any affiliate of a competitor of the Producing Party; and (3) if segregation of such personnel is impractical, the independent expert shall give to the Producing Party written assurances that the lack of segregation will in no way jeopardize the interests of the Producing Party. The Producing Party retains the right to challenge the adequacy of the written assurances that its interests will not be jeopardized.

c. No other persons may have access to the Proprietary Information except as authorized by order of the Commission or of the presiding Administrative Law Judge. No person who may be entitled to receive, or who is afforded access to any Proprietary Information, shall use or disclose such information for the purposes of business or competition, or for any purpose other than the preparation for and conduct of this proceeding or any administrative or judicial review thereof.

5. Counsel shall use or disclose the Proprietary Information only for purposes of preparing or presenting evidence, cross examination or argument in this proceeding.

6. Prior to making Proprietary Information available to any person as provided in Ordering Paragraph No. 4, above, counsel for a party of record shall deliver a copy of this Order to such person and shall receive a written acknowledgement from that person in the form attached to this Order and designated as "Appendix A". Counsel shall promptly deliver to the Producing Party a copy of this executed acknowledgement form. Each person authorized to have access to Proprietary Information under Order Paragraph No. 4, above, shall use commercially reasonable measures to ensure such Proprietary Information remains confidential.

7. A producing party shall designate data or documents as constituting or containing Proprietary Information by affixing an appropriate proprietary stamp or typewritten or handwritten designation on such data or documents. Where only part of data compilations or

multi-page documents constitutes or contains Proprietary Information, the producing party, insofar as reasonably practicable within discovery and other time constraints imposed in this proceeding, shall designate only the specific data or pages of documents that constitute or contain Proprietary Information.

8. Any federal agency that has access to and/or receives copies of the Proprietary Information will consider and treat the Proprietary Information as within the exemption from disclosure provided in the Freedom of Information Act as set forth at 5 U.S.C. §552(b)(4) until such time as the information is found to be non-proprietary.

9. Any state agency which has access to and/or receives copies of the Proprietary Information will consider and treat the Proprietary Information as “Confidential Proprietary Information” that is exempt from disclosure under Section 708(b)(11) of the Pennsylvania Right-to-Know Law (65 P.S. § 67.708(b)(11)) until such time as the information is found to be non-proprietary.

10. Any public reference to Proprietary Information by the Commission or by counsel or persons afforded access thereto shall be to the title or exhibit reference in sufficient detail to permit persons with access to the Proprietary Information to fully understand the reference and not more. The Proprietary Information shall remain a part of the record, to the extent admitted, for all purposes of administrative or judicial review.

11. Part of any record of any of proceedings containing the Proprietary Information, including but not limited to all exhibits, writings, testimony, cross examination, argument, and responses to discovery, and including reference thereto as mentioned in Ordering Paragraph No. 10, above, shall be sealed for all purposes, including administrative and judicial review, unless such Proprietary Information is released from the restrictions of this Protective Order, either through the agreement of the parties or pursuant to an order of an Administrative Law Judge or the Commission. Unresolved challenges arising under Ordering Paragraph No. 12, below, shall be decided on petition by the presiding officer and/or the Commission as provided in 52 Pa. Code § 5.365(a). All such challenges will be resolved in conformity with existing rules, regulations, orders, statutes, and precedent to the extent such guidance is available.

12. The parties affected by the terms of this Protective Order shall retain the right to question or challenge the confidential or proprietary nature of Proprietary Information; to question or challenge the admissibility of Proprietary Information on any proper ground, including but not limited to irrelevance, immateriality or undue burden; to seek an order permitting disclosure of Proprietary Information beyond that allowed in this Protective Order; and to seek additional measures of protection of Proprietary Information beyond those provided in this Protective Order. If a challenge is made to the designation of a document or information as Proprietary, the party claiming that the information is Proprietary retains the burden of demonstrating that the designation is necessary and appropriate.

13. Upon completion of this proceeding, including any administrative or judicial review thereof, all copies of all documents and other materials, including notes, which contain any Proprietary Information, shall be immediately returned upon request to the party furnishing such Proprietary Information. In the alternative, parties may provide an affidavit of counsel affirming that the materials containing or reflecting Proprietary Information have been destroyed. This provision shall not apply to the Commission and its Staff..

Dated: _____, Administrative Law Judge

APPENDIX A
COMMONWEALTH OF PENNSYLVANIA
BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

IN RE: APPLICATION OF : **DOCKET A-2015-2468549**
PREFERRED MEDICAL :
TRANSPORT, INC. :

The undersigned has read and understands the Protective Order issued in the above-captioned proceeding, which deals with the treatment of Proprietary and Confidential Information. The undersigned agrees to be bound by, and comply with, the terms and conditions of said Protective Order. In the case of an independent expert, the undersigned represents that he/she has complied with the provisions of paragraph 4(b)(ii) of this Order prior to submitting this Affidavit. The undersigned agrees that any Proprietary and Confidential Information, as addressed and defined in the Protective Order, shall be used and disclosed only for purposes of preparation for, and the conduct of, the above-captioned proceeding, and any administrative or judicial review thereof, and shall not be disclosed or used for any other purposes whatsoever.

Signature

Print Name

Job Title and Job Description

Date

Business Address

Employer

If Independent Expert, List Persons/Entities Retaining You

Role in Proceeding

**COMMONWEALTH OF PENNSYLVANIA
BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

IN RE: APPLICATION OF : **DOCKET A-2015-2468549**
PREFERRED MEDICAL :
TRANSPORT, INC. :

CERTIFICATE OF SERVICE

I hereby certify that I have this 5th day of May, 2015, served true copies of the Joint Motion of Applicant Preferred Medical Transport, Inc. and Joint Protestants Suburban Transit Network, Inc. t/a TransNet, Willow Grove Yellow Cab Co., Inc. t/d/b/a Bux-Mont Yellow Cab and t/d/b/a Bux-Mont Transportation Services Co., Easton Coach Company t/a Norristown Transportation Company, Tri County Transit Service, Inc., and Bucks County Transport, Inc., upon the participants listed below, in accordance with the requirements of 52 Pa. Code § 1.54.

VIA E-FILING

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
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P.O. Box 3265
Harrisburg, PA 17105-3265

VIA E-SERVICE

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