

May 20, 2015

**Via Electronic Filing – Refiled with Corrected Docket Number**

Rosemary Chiavetta, Esquire  
Secretary  
PA Public Utility Commission  
Commonwealth Keystone Building, 2 North  
400 North Street  
Harrisburg, PA 17120

**Re: Docket No. A-2015-2471761  
Application of Fabian Transportation, Inc.  
Motion to Dismiss the Protest of Good Cab, LLC**

Dear Secretary Chiavetta:

Attached for filing is Fabian Transportation's Motion to Dismiss the Protest of Good Cab, LLC ("Protestant") in the above captioned proceeding.

A copy of the attached Motion to Dismiss has been forwarded to the Protestant in the manner indicated on the attached Certificate of Service.

If there are any questions, please do not hesitate to contact me.

Very truly yours,

Reger Rizzo & Darnall LLP



Margaret A. Morris  
Debra L. Roscioli

MAM/jm  
Enclosure

cc: Justine L. Pate, Esquire [w/enc.]  
Leandro Brito [w/enc.]

**Re: Docket No. A-2015-2471761  
Application of Fabian Transportation, Inc.  
Motion to Dismiss the Protest of Good Cab, LLC**

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing document has been served upon the following person(s), in the manner indicated, in accordance with the requirements of § 1.54 (relating to service by a participant).

**Via First Class Mail**

Justine L. Pate, Esquire  
620 S. 13<sup>th</sup> Street  
Harrisburg, PA 17104

*Counsel for Good Cab, LLC*

Dated: May 20, 2015



---

Margaret A. Morris, Esquire  
Debra L. Roscioli, Esquire

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

In Re: Application of Fabian Transportation, Inc.

Docket No. A-2015-2471761

**NOTICE TO PLEAD**

Pursuant to 52 Pa. Code § 5.101, you are hereby notified that if you do not file a written response answering the enclosed Motion to Dismiss of Fabian Transportation, Inc. within ten (10) days from service of this notice, the facts set forth by Fabian Transportation, Inc. in the Motion to Dismiss may be deemed to be true, whereby requiring no other proof. All pleadings, such as a Reply to the Motion to Dismiss, must be filed with the Secretary of the Pennsylvania Public Utility Commission, with a copy served to counsel for Fabian Transportation, Inc., Margaret A. Morris, Esquire, and where applicable the Administrative Law Judge presiding over the issue.

**File with:**

Rosemary Chiavetta, Esquire  
Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building – 2 North  
P.O. Box 3265  
Harrisburg, PA 17105

**With a copy to:**

Margaret A. Morris, Esquire  
Debra L. Roscioli, Esquire  
Reger Rizzo & Darnall LLP  
Cira Centre, 13<sup>th</sup> Floor  
2929 Arch Street  
Philadelphia, PA 19104

Dated: May 20, 2015



---

Margaret A. Morris, Esq.  
Attorney ID No. 75048  
Debra L. Roscioli, Esq.  
Attorney ID No. 91014  
Reger Rizzo & Darnall LLP  
Cira Centre, 13<sup>th</sup> Floor  
2929 Arch Street  
Philadelphia, PA 19104  
(215) 495-6524 tel.  
(215) 495-6600 fax

[mmorris@regerlaw.com](mailto:mmorris@regerlaw.com)

Counsel for Fabian Transportation, Inc.



4. Protestant did not attach a copy of its current authority to its Protest. According to Commission records, Protestant currently has call and demand authority in the counties of Dauphin and Cumberland under Docket No. A-00120846.

5. Protestant does not hold authority to serve either the Philadelphia International Airport or the Lehigh Valley International Airport.

6. Protestant does not hold airport transfer service authority from the Commission.

## **II. The Protest Should Be Dismissed For Lack of Standing.**

7. Protestant lacks standing to protest the Application. Standing to participate in proceedings before an administrative agency is primarily within the discretion of the agency. *Pennsylvania National Gas Ass'n v. T.W. Phillips Gas and Oil Co.*, 75 Pa. PUC 598 (1991). Generally, Pennsylvania courts and the Commission have held that a person or entity has standing when the person or entity has a direct, immediate and substantial interest in the subject matter of a proceeding. *William Penn Parking Garage, Inc. v. City of Pittsburgh*, 464 Pa. 168, 195-197, 346 A.2d 269, 282-284 (1975); *Landlord Service Bureau, Inc. v. Equitable Gas Co.*, 79 Pa. PUC 342 (1993). A general interest in compliance with the law is insufficient to confer standing to protest an application. Requiring a person or entity to have a direct, immediate and substantial interest in the subject matter of a proceeding helps avoid frivolous, harassing lawsuits whose costs are ultimately borne, at least in part, by utility ratepayers. *Pennsylvania Pub. Util. Comm'n v. National Fuel Gas Distribution Corp.*, 73 Pa. PUC 552 (1990).

8. Protestant does not hold authority to provide transportation service to or from the Philadelphia International Airport or Lehigh Valley International Airport. Well-established Commission precedent provides that a protestant must have some operating rights in actual or potential conflict with the authority sought by an applicant in order to have standing to protest an

application. *Application of Germantown Cab Company*, Docket No. A-2012-2294922 (Commission Final Order entered November 9, 2012).

9. Protestant does not have authority to provide airport transfer service to any of the three airports named in the Application as the authority it possesses (call and demand) is different from the authority requested in the Application (airport transfer service).

**III. The Protest Should Be Dismissed for Failure to Comply with Commission Regulations.**

10. 52 Pa. Code §3.381(c)(1)(i)(A)(iv) provides that any protest filed with the Commission must set forth:

A statement of the protestant's interest in the application, including a statement of any adverse impact which approval of the application can be expected to have on the protestant.

11. The Protest fails to meet this standard and is predicated on nothing more than a desire to freeze out healthy competition, with, as it states explicitly, "resulting loss of revenue to Good. . ."

12. In addition, the Protest fails to include a statement of any restrictions to the Application which would protect the Protestant's interest, including a concise statement of any amendment which would result in the withdrawal of the Protest as required by 52 Pa. Code §3.381(c)(1)(i)(A)(vi).

13. Moreover, the Protest incorrectly states that the Applicant lacks the necessary financial and technical fitness by failing to include various documents and information. The Commission's regulations do not require that such documents be attached to applications.

14. Furthermore, 52 Pa. Code § 3.381(c)(1)(i)(A)(V) provides that any protest filed with the Commission must set forth:

A list of all Commission docket numbers under which the protestant operates, *accompanied by* a copy of any portion of the protestant's authority upon which its protest is predicated. (*Emphasis added*).

15. The Protest filed in this case is not accompanied by a copy of any portion of its authority upon which its Protest is predicated. The Commission has for many years and on numerous occasions held that a failure to attach a copy of a protestant's existing authority to its protest warrants dismissing the defective protest. *Application of RIZK-CO-ZANN Foods Corporation t/a International Food Mart*, Docket Number A-00123650F0002, (Commission Final Order entered July 28, 2009).

16. In this case, the Protest filed by Good Cab is defective on its face, as well as deficient in omitting required attachments mandated by 52 Pa. Code § 3.381(c)(1)(i)(A)(V). Consequently, Fabian's Motion should be granted and the Protest dismissed.

WHEREFORE, Applicant, Fabian Transportation, Inc., respectfully requests that the Commission grant this Motion to Dismiss the Protest of Good Cab, LLC, and refer the Application to the Commission's Bureau of Transportation and Safety for review and resolution pursuant to 52 Pa. Code § 3.381(c)(1)(iii)(A).

Respectfully submitted,

Dated: May 20, 2015



---

Margaret A. Morris, Esq.  
Attorney ID No. 75048  
Debra L. Roscioli, Esq.  
Attorney ID No. 91014  
Reger Rizzo & Darnall LLP  
Cira Centre, 13<sup>th</sup> Floor  
2929 Arch Street  
Philadelphia, PA 19104  
(215) 495-6524 tel.  
(215) 495-6600 fax  
[mmorris@regerlaw.com](mailto:mmorris@regerlaw.com)

Counsel for Fabian Transportation, Inc.

Docket No. A-2015-2471761  
In re: Application of Fabian Transportation, Inc.

Attachment 1

Protest of Good Cab, LLC



**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Application of Fabian Transportation, Inc.

:  
:  
:  
:  
:

Commission Docket No.  
A-2015-2471761

**PROTEST OF  
Good Cab, LLC**

Good Cab, LLC (Good) hereby files this protest to the Application of Fabian Transportation, Inc., for the right to transport, persons in airport transportation service, from points in Lebanon County to the Harrisburg International Airport, Lehigh Valley International Airport, and Philadelphia International Airport. Good respectfully requests that this Commission deny the application for the reasons set forth below.

1. The name and business address of Good are:

Good Cab, LLC  
2304 Walnut Street  
Harrisburg PA 17103

2. The name and address of Protestant's attorney is:

Justine L. Pate, Esq.

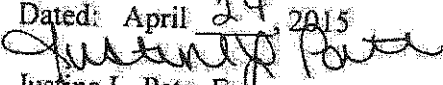
620 S. 13<sup>th</sup> Street

Harrisburg, PA 17104

3. Protestant possesses authority at A-00120846. Protestant's operating authority is attached hereto as Exhibit A.

4. Applicant has not attached to its application: a balance sheet, projected revenue and expense statement, or any other financial information that is indicative of its financial fitness to provide the proposed service in this area. Accordingly, Good believes and therefore avers that Applicant does not possess the requisite financial fitness to provide the proposed service.
5. Applicant has attached no information to its application that would indicate how Applicant intends to operate. Accordingly, Good believes and therefore avers that Applicant does not possess the requisite technical fitness to provide the proposed service in such huge area.
6. Approval of this application will not serve a useful public purpose or need, but will duplicate already existing service to the detriment of existing carriers.
7. There is no need for the proposed service.
8. It would authorize additional unnecessary and harmful competition into the area with the resulting loss of revenue to Good and be detrimental to the traveling public.

WHEREFORE, Protestant, Good Cab, LLC respectfully requests that this Honorable Commission deny the application of Fabian Transportation, LLC.

Dated: April 24, 2015  
  
Justine L. Pate, Esq.  
620 S. 13<sup>th</sup> Street  
Harrisburg, PA 17104



COMMONWEALTH OF PENNSYLVANIA IN REPLY PLEASE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION  
P.O. BOX 3265, HARRISBURG, PA 17105-3265

Exhibit A

IN REPLY PLEASE  
REFER TO OUR FILE

December 19, 2011

A-00120846

CRAIG A DOLL ESQUIRE  
25 WEST SECOND STREET  
PO BOX 403  
HUMMELSTOWN PA 17036-0403

Request for Change of Entity for the Carrier: Hesham A. Medled, d/b/a Harrisburg Taxi to Good Cab, LLC

To Whom It May Concern:

The records of the Commission show that applicant has complied with the necessary requirements and the Commission's records are so noted showing the new name on the certificate of public convenience.

If you wish to have the original certificate changed to reflect the new name, you will have to send it to the Commission. Please send your request for an updated certificate and the original certificate to:

PA Public Utility Commission  
Secretary's Bureau  
Order Entry/Service Section  
P O Box 3265  
Harrisburg, PA 17105-3265

If you do not wish to have a different certificate, simply attach this letter to the Commission's Secretarial letter you received earlier, and keep these documents with your original certificate.

Thank you for your cooperation in this matter.

Very truly yours,

Rosemary Chiavetta  
Secretary

## Certificate of Service

I hereby certify that I served the foregoing Protest by placing a true and correct copy thereof in the United States Mail, first class postage prepaid, addressed as follows:

Fabian Transportation, Inc.

444 North 11<sup>th</sup> Street

Lebanon, PA 17046

Dated: 4/24/15

Justine J. Pate