



THOMAS, NIESEN & THOMAS, LLC

*Attorneys and Counsellors at Law*

THOMAS T. NIESEN  
Direct Dial: 717.255.7641  
tniesen@tntlawfirm.com

September 4, 2015

**Via Hand Delivery**

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


In re: Docket No. A-2015-2475776  
Application of Amigo Cab, LLC

Dear Secretary Chiavetta:

We are counsel to Protestant Autocab, Inc. in the above matter and are filing with this letter its Objection to the Application of Applicant Amigo Cab, LLC for a Subpoena Duces Tecum. A copy of the Objection is being served upon the persons and in the manner set forth on the certificate of service attached to it.

Very truly yours,

THOMAS, NIESEN & THOMAS, LLC

By 

Thomas T. Niesen

Enclosure

cc: Certificate of Service (w/encl.)  
Timothy J. Schwartz (via email, w/encl.)

150904-Chiavetta (Obj to App for Sub DT).wpd

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2015 SEP -4 PM 1:28  
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SECRETARY'S BUREAU

PENN.

TY COMMISSION

Admin

*Obj*

uckley, Presiding

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Application of Amigo Ca  
Approval to Provide Taxi Ser  
Points in the Counties of Berks and  
Lancaster to Points in Pennsylvania and  
return

ocket No. A-2015-2475776

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**OBJECTION OF AUTOCAB, INC. TO APPLICATION FOR SUBPOENA DUCES  
TECUM TO PRODUCE DOCUMENTATION THAT AUTOCAB HAS  
PERMISSION FROM THE PENNSYLVANIA PUBLIC UTILITY  
COMMISSION TO OPERATE UNDER THE TRADE NAME  
YELLOW CAB**

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AND NOW, comes Autocab, Inc., ("Protestant Autocab"), by its attorneys, and, pursuant to 52 Pa. Code § 5.421(f), objects to the application of Amigo Cab, LLC ("Applicant Amigo Cab") for a subpoena duces tecum to produce documentation that Protestant Autocab has permission from the Public Utility Commission ("Commission") to operate under the trade name Yellow Cab as follows:

**BACKGROUND**

1. This proceeding concerns the Application of Amigo Cab, LLC, filed with the Commission on or about March 16, 2015, to provide call or demand service in Berks and Lancaster Counties.

2. Protestant Autocab provides call or demand service in Lancaster County and filed a timely Protest to the Application on June 3, 2015.

3. On or about August 26, 2015, Applicant Amigo Cab filed an application for subpoena duces tecum to produce documentation that Protestant Autocab has permission from the Commission to operate under the trade name Yellow Cab.

#### **OBJECTION TO APPLICATION**

4. Protestant Autocab intends to have a witness appear and testify at hearing in this matter, which, presently, is rescheduled for October 14, 2015. Protestant Autocab, however, objects to Applicant Amigo Cab's application for subpoena duces tecum for the following reasons as there is no support for the legal conclusion upon which it is based:

- a. The application for subpoena duces tecum seeks documentation that Protestant Autocab has permission from the Commission to operate under a trade name. Contrary to the legal conclusion presented in the application, the Public Utility Code does not require a certificated provider of utility service to obtain Commission approval to adopt and use a trade name.
- b. Protestant Autocab does business as Yellow Cab of Lancaster and operates 26 taxicabs in Lancaster County in full compliance with Commission regulations. Each cab is marked as "YELLOW CAB Lancaster, Pa." The Commission's *Transportation Bureau* inspects Autocab's taxicabs at least once a year. The Bureau has never (not even one time) questioned Protestant Autocab's use of the YELLOW CAB name.
- c. Applicant Amigo Cab's argument that Commission approval is required for a trade name is based entirely on the language of 52 Pa. Code Section 29.71. The regulation addresses vehicle marking, not a filing or approval process for using a business name. The language of the regulation, moreover, is somewhat vague.

The “approval” wording, upon which Applicant Amigo Cab relies, follows the word “insignia,” not the word “name.” More important, in terms of the actual wording of the regulation and its practical application, is the “A” docket number, which appears in quotes in the regulation – “Pa.P.U.C. No. A”– and is prominently displayed on the side of every Autocab taxi vehicle. A picture of an Autocab taxicab is attached to this objection as Exhibit 1.

- d. The Commission, in any event, is aware of Protestant Autocab’s use of the Yellow Cab name. Protestant Autocab submitted its 2007 rate filing to the Commission as Autocab, d/b/a Yellow Cab of Lancaster. The transmitting cover letter from the rate filing is attached to this objection as Exhibit 2. The “doing business as” name “Yellow Cab of Lancaster” is also shown on Autocab’s insurance identification card. A copy of the currently effective insurance card is attached to this objection as Exhibit 3.

### **CONCLUSION**

5. Protestant Autocab’s permission to operate under the trade name Yellow Cab of Lancaster (or any trade name) is the Order of the Commission entered March 9, 2005 at Commission Docket No. A-00119919. A copy of the Order and certificate of public convenience of Autocab, Inc. is attached to this objection as Exhibit 4.

WHEREFORE, for the reasons set forth above, Protestant Autocab, Inc. requests that Administrative Law Judge Buckley deny the Application of Applicant Amigo Cab, LLC for Subpoena Duces Tecum.

Respectfully submitted,



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By: Thomas T. Niesen, Esquire  
PA Attorney ID No. 31379  
THOMAS, NIESEN & THOMAS, LLC  
212 Locust Street, Suite 600  
Harrisburg, PA 17101

*Attorney for Protestant Autocab, Inc.*

DATE: September 4, 2015

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EXHIBIT 1

90

**YELLOW CAB**

Lancaster, Pa.

717-392-2222

This vehicle is operated by  
an independent contractor.

FJC-A-00119919



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EXHIBIT 2



January 28, 2008

Pennsylvania Public Utility Commission  
Bureau of Transportation and Safety  
First Floor, Barto Building  
231 State Street  
Harrisburg, PA 17101

EB756595154US  
USPS  
10:16 AM 1/29/08

Dear PUC Commission:

This letter and the accompanying supporting detail are being sent to you for the purpose of requesting increases to the taxi tariff as currently filed, of Autocab, Inc. ( d/b/a Yellow Cab of Lancaster ).

The newly filed tariffs are as indicated on the accompanying Schedule of Proposed Rate Changes, and are proposed to become effective March 3, 2008.

It has been three years since our last tariff increase. In the past three years we have seen significant increases in many of our expense categories. The greatest financial burden has been increases created by the petroleum industry. The outlook for the price of fuel does not look promising. The temporary fuel surcharge that the PUC has put into place has only helped to reduce the burden of high fuel prices, not relieve it. Not only does fuel move the vehicles that are essential to our business, but the price of fuel affects our maintenance of the vehicles, utilities, trash removal and many other general expenses. With the uncertainty of the extension of the fuel surcharge, we are looking to add it to our drop price. Once the new rate is approved, we would stop using the monthly adjustment that the PUC issues on their website. We are requesting an approximate 17.29% rate increase, which is modest considering the increases we have seen from the industries related to our business in each of the last three years and the rollercoaster of fuel prices that have left us wondering where the price will be the next morning. In addition to fuel prices, the start up costs for the last three years have exceeded our budget significantly. In order to increase our lease prices, we must obtain a greater revenue stream for the independent contactors who driver for of company.

Therefore, we request approval of the requested increase as a vital part of returning our company to financial stability.

Enclosed with this letter you will also find the following supporting data required by 52 PA Code Sec. 23.63, 23.64 and 23.61.

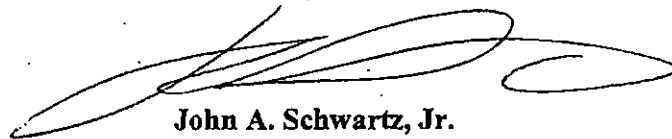
1. Schedule of proposed rate changes.
2. Balance Sheet as of December 31, 2007.

3. Schedule of passenger motor vehicles as of December 31, 2007.
4. Income Statement for the 12 months ended December 31, 2007, with Adjustments and Projected Year.
5. Explanations of Adjustments and Projected Year.
6. Affidavit of Timothy J. Schwartz.
7. Public Notice of Proposed Rate Increases.

In the event of any proceedings before the Public Utility Commission with respect to the proposed rates, it is agreed that the tariff and the financial data submitted therewith will be offered in evidence as an exhibit.

Based upon our request and all additional detail submitted in support of our request, we respectfully request that the commission approve our newly filed tariffs as submitted.

Very truly yours,

A handwritten signature in black ink, appearing to read "John A. Schwartz, Jr.", written over a horizontal line.

**John A. Schwartz, Jr.**  
**Vice President**

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SECRETARY'S BUREAU

EXHIBIT 3

INSURANCE IDENTIFICATION CARD  
STATE Pennsylvania

COMPANY NUMBER COMPANY  
American Country Insurance Co.  
POLICY NUMBER EFFECTIVE DATE EXPIRATION DATE  
PA1000000002-01 01/06/15 01/06/16  
YEAR MAKE/MODEL VEHICLE IDENTIFICATION NUMBER  
ALL SCHEDULED AUTOS

AGENCY/COMPANY ISSUING CARD  
Research Underwriters  
Stephen Michael Friedberg  
412-351-5800

INSURED  
Autocab Inc dba Yellow Cab of  
Lancaster  
625 E. Orange Street  
Lancaster, PA 17602

COVERAGE MEETS MINIMUM LIABILITY INSURANCE PRESCRIBED BY LAW

OP ID EE

THIS CARD MUST BE KEPT IN THE INSURED  
VEHICLE AND PRESENTED UPON DEMAND

IN CASE OF ACCIDENT: Report all accidents  
to your Agent/Company as soon as possible.  
Obtain the following information:

1. Name and address of each driver,  
passenger and witness.
2. Name of Insurance Company and policy  
number for each vehicle involved.

ACORD 50 WH (2/95)

INSURANCE IDENTIFICATION CARD  
STATE Pennsylvania

COMPANY NUMBER COMPANY  
American Country Insurance Co.  
POLICY NUMBER EFFECTIVE DATE EXPIRATION DATE  
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ACORD 50 WH (2/95)

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# EXHIBIT 4

**75PENNSYLVANIA  
PUBLIC UTILITY COMMISSION  
Harrisburg, PA 17105-3265**

**Public Meeting held March 3, 2005**

**Commissioners Present:**

**Wendell F. Holland, Chairman  
Robert K. Bloom, Vice-Chairman  
Kim Pizzingrilli**

Application of Autocab, Inc., a corporation of the Commonwealth of Pennsylvania, for the right to begin to transport, as a common carrier, by motor vehicle, persons upon call or demand, in the county of Lancaster.

A-00119919  
F. 2

\_\_\_\_\_

Thomas, Thomas, Armstrong & Niesen by Thomas T. Niesen for the applicant.

\_\_\_\_\_

**ORDER**

**BY THE COMMISSION:**

This matter comes before the Commission on an application filed April 7, 2004. Public notice of the application was given in the *Pennsylvania Bulletin* of June 5, 2004 with protests due by June 28, 2004. No protests were filed. By letter dated July 12, 2004 verified statements were requested and due by August 12, 2004. Applicant requested four 30-day extensions of time to file the verified statements that were granted and the statements were received on December 14, 2004. The unopposed application is certified to the Commission for its decision without oral hearing.

## DISCUSSION AND FINDINGS

Autocab, Inc. (applicant or Autocab) is a Pennsylvania corporation seeking the initial right to transport persons upon call or demand in the county of Lancaster. Procedurally, when two applications are filed close together and the first application has not been adjudicated, the second application is also referred as the initial right, even though both applications may be seeking the same type of authority. This happened in this case. Applicant applied for and was issued a certificate on August 17, 2004 at Folder 1 to transport persons upon call or demand in the city of Lancaster and within an airline distance of six statute miles of the limits of said city.

Autocab will use the facilities of Model Management Services, Inc., an affiliated company regulated by the PUC, located at 625 East Orange Street, Lancaster, Lancaster County, to store, dispatch and repair its vehicles. There is a three acre parking lot and service facility with ten service bays. Communications will be by telephone lines into the office, two-way radios, cell phones and fax machine. Applicant initiated service with 14 subcontracted drivers and five dispatchers. The safety program includes driver training, defensive driver training course, drug testing, criminal background check and applicant's safety and health statements. Operations commenced with six 2001 Ford Taurus's owned by Autocab.

Timothy J. Schwartz and John A. Schwartz, Jr. are the owners of Autocab. They are also the owners, president and vice president, respectively, of Model Management Services, Inc. Model Management is a certificated PUC carrier at Docket No. A-00100664 holding call or demand, paratransit and limousine authority. Applicant is also affiliated with Friendly Messenger Service, Inc. a motor carrier of property under PUC docket number A-00111930. Timothy J. and John A. Schwartz, the owners of the common stock of applicant, are also the owners of the common stock of Model Management Services, Inc. and Friendly Messenger Service, Inc. They have been involved in the transportation business for over 25 years and are involved in the businesses on a daily basis.

The pro forma balance sheet of the applicant shows total current assets of \$50,230, total assets of \$55,000, and total liabilities of \$54,990 and total owners' equity of \$10.

*Eight businesses in the county of Lancaster submitted statements that demonstrate a requirement for call or demand transportation services between points in Lancaster County. The statements show that service is required by the businesses for their customers and employees from the Lancaster Airport to restaurants, lodging and to numerous other destination points in Lancaster County and vice versa; for clients from inns to restaurants and vice versa; for clients from various hotels to attractions and to nightly entertainment and vice versa; employee transportation between work facilities and for employees between hospitals for pre-employment physicals and drug testing.*

Even though applicant currently has a Form E, evidence of bodily injury and property damage insurance, on file with the Commission, it will have to file a new Form E to cover the grant of expanded operations herein.

**After complete review of the record, we find:**

1. Applicant was issued a certificate on August 17, 2004 to provide call or demand service in the city of Lancaster and points within six miles thereof; applicant seeks to expand the service area to include the county of Lancaster.
2. The application is supported by eight parties.
3. Applicant has the equipment, ability and fitness necessary to render the service.
4. The evidence of record is sufficient to establish necessity for the service.
5. Approval of the application is necessary for the accommodation and convenience of the public; **THEREFORE,**

**IT IS ORDERED:** That the application be and is hereby approved granting the following right:

To transport, as a common carrier, persons upon call or demand, in the county of Lancaster.

**IT IS FURTHER ORDERED:** That the applicant shall not engage in any transportation authorized by this order until the following is submitted to the Commission:

1. Form E, as evidence of bodily injury and property damage liability insurance to cover the expanded operations herein.
2. A tariff establishing just and reasonable rates.

**IT IS FURTHER ORDERED:** That the authority granted herein, to the extent that it duplicates authority now held by or subsequently granted to the applicant, shall not be construed as conferring more than one operating right.

**IT IS FURTHER ORDERED:** That upon compliance with the requirements hereinbefore set forth, a certificate shall issue evidencing the Commission's approval of the right to operate as above determined.

**IT IS FURTHER ORDERED:** That in the event said applicant has not, on or before sixty (60) days from the date of the service of this order, complied with the requirements hereinbefore set forth, the application shall be dismissed without further proceedings.



**BY THE COMMISSION,**

James J. McNulty  
Secretary

**(SEAL)**

**ORDER ADOPTED: March 3, 2005**

**ORDER ENTERED: March 9, 2005**

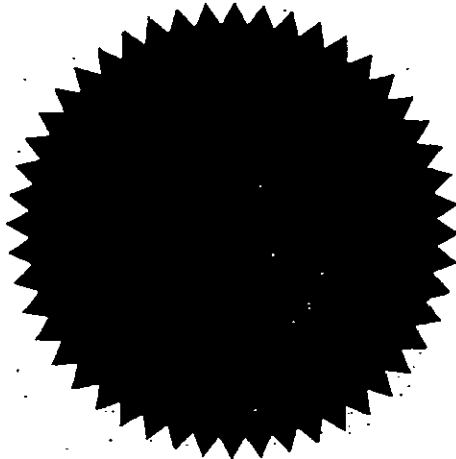
**PENNSYLVANIA  
PUBLIC UTILITY COMMISSION**

**IN THE MATTER OF THE APPLICATION OF: A-00119919**

**Autocab, Inc.**

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 to operate.

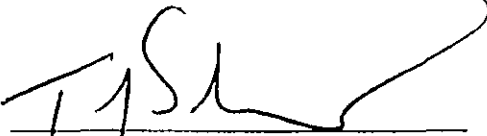
In Witness Whereof, The PENNSYLVANIA PUBLIC UTILITY COMMISSION has caused these presents to be signed and sealed, and duly attested by its Secretary at its office in the city of Harrisburg this 17<sup>th</sup> day of August, 2004.



*James J. McKeelty*  
Secretary

## VERIFICATION

I, Timothy J. Schwartz, President of Autocab, Inc., hereby state that the facts set forth concerning Autocab, Inc., in the foregoing Objection to Applicant's Application for Subpoena Duces Tecum are true and correct to the best of my knowledge, information and belief and that I expect to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. §4904 (relating to unsworn falsification to authorities).



Timothy J. Schwartz

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Administrative Law Judge Dennis J. Buckley, Presiding

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Application of Amigo Cab, LLC for : Docket No. A-2015-2475776  
Approval to Provide Taxi Service Between :  
Points in the Counties of Berks and :  
Lancaster to Points in Pennsylvania and :  
return :

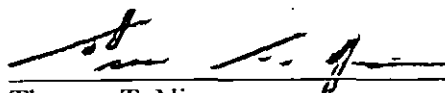
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I hereby certify that I have this 4<sup>th</sup> day of September, 2015 served a true and correct copy of the foregoing Objection of Autocab, Inc. to Application for Subpoena Duces Tecum, upon the persons and in the manner set forth below:

**VIA EMAIL AND FIRST CLASS MAIL, POSTAGE PREPAID**

The Honorable Dennis J. Buckley  
Administrative Law Judge  
Pennsylvania Public Utility Commission  
Post Office Box 3265  
Harrisburg, PA 17105-3265  
[debuckley@pa.gov](mailto:debuckley@pa.gov);

John W. Sweet, Esquire  
The Sweet Firm  
620 South 13<sup>th</sup> Street  
Harrisburg, PA 17104  
[John@SweetFirm.com](mailto:John@SweetFirm.com)  
*Counsel for Amigo Cab, LLC*



Thomas T. Niesen  
PA Attorney ID No. 31379

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