

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Application of Dominicana Taxi Express, LLC           :  
For Approval to Provide Taxi Service in the           :  
City of Reading, Berks County                            :  
A-2015-2471494

**INITIAL DECISION**

Before  
Elizabeth H. Barnes  
Administrative Law Judge

**INTRODUCTION**

This Initial Decision approves an application for taxi service in the City of Reading, Pennsylvania.

**HISTORY OF THE PROCEEDING**

On February 6, 2015, Dominicana Taxi Express, LLC (Applicant or DTE) filed an Application for the right to transport as a common carrier by motor vehicle, persons in call or demand service, from points in the City of Reading, Berks County to points in Pennsylvania and return.<sup>1</sup> Notice of the Application's filing appeared in the *Pennsylvania Bulletin* on April 10, 2015, 45 *Pa.B.* 1917, and April 27, 2015, was set as the deadline for the filing of protests.

---

<sup>1</sup> The name on Line 1 of the Application was amended from "Pedro E. Ramirez" to match the name registered with the Department of State, "Dominicana Taxi Express, LLC" on March 2, 2015.

On April 21, 2015, Protestant Grab-A-Cab, of Berks County, filed a timely protest.<sup>2</sup> On April 17, 2015, Protestants Reading Yellow Cab, Inc., Reading Metro Cab, Inc., and Reading Checker Cab, Inc. filed Protests.

On October 9, 2015, a Hearing Notice was issued which set the formal evidentiary hearing in this matter for November 23, 2015, and assigned the matter to me. I issued a Prehearing Order on October 9, 2015, which repeated the scheduling information and provided additional direction regarding participation in a formal proceeding before the Commission.

On or about November 20, 2015, Protestant Grab-A-Cab withdrew its protest. There was no objection to the withdrawal of protest. A hearing was held on November 23, 2015. Applicant was represented by Russell E. Farbiarz, Esquire and Protestants Reading Yellow Cab, Inc., Reading Metro Cab, Inc., and Reading Checker Cab (collectively “Protestants”), were represented by Stephen G. Welz, Esquire. Luz Meck, a Spanish/English Interpreter, was also present at the hearing. At the close of the hearing, I requested that counsel file main briefs by January 8, 2016 and reply briefs by January 22, 2016. A transcript consisting of 236 pages was filed on December 23, 2015. On December 24, 2015, Applicant filed a Motion to extend the briefing deadlines. A Briefing Order was issued on December 31, 2015, extending the briefing deadlines until February 1, 2016 and February 15, 2016, respectively. On January 29, 2016, Applicant filed its Main Brief. On February 1, 2016, Protestants filed their Main Brief. On February 12, 2016, Protestants filed a Reply Brief and on February 16, 2016, Applicant filed a Reply Brief. The record closed on February 16, 2015. This matter is ripe for a decision.

#### FINDINGS OF FACT

1. The Applicant is Dominicana Taxi Express, LLC, a limited liability company with no current or prior authority, located at 1313 Moss Street, Reading, PA. Exhibit A-21 (Business Plan).

---

<sup>2</sup> Grab-A-Cab was initially represented by Steven K. Haas, Esquire, who later filed a notice of withdrawal of appearance on May 26, 2015 at the same time William E. Lehman, Esquire filed his notice of appearance from the same law firm. Mr. Haas began employment at the Office of Administrative Law Judge on June 1, 2015 as an Administrative Law Judge, and has not been consulted on this matter.

2. Protestants are Reading Metro Taxi Cab, Inc., Reading Checker Cab, Inc. and Reading Yellow Cab, Inc., common carrier corporations holding certificates of public convenience at Docket Nos. A-101102, A-00121381, and A-00109547 respectively.

3. DTE is a limited liability company organized on or about February 6, 2015, owned by Xiomara Rodriguez (49%) and Pedro E. Ramirez (51%).

4. DTE intends to provide in call or demand taxi service to all persons in the City of Reading, Berks County, and to target its marketing to those persons residing in the Hispanic community for whom English is a second language. N.T. 19-20.

5. DTE intends to employ bilingual dispatchers and drivers for its taxis, who speak fluent English and Spanish to better serve the Hispanic community residing in Reading. N.T. 19-20.

6. Lordes Alverlo is a bilingual Reading resident at 4926 Kutztown Road, Temple, PA, who believes it would be helpful to her community if DTE were to receive a certificate because of their bilingual drivers and the shortening of waiting times for a taxi, especially during inclement weather. N.T. 189-197.

7. Ms. Alverlo would use DTE for taxi service if available to be transported between points within Reading, her home, mall and hospital. N.T. 189-197.

8. Perla Polanco has resided at 1039 Locust Street, Reading, PA for eight years. N.T. 198-199.

9. Ms. Polanco uses a taxi cab every day because she doesn't drive and she has no driver's license or car. N.T. 199.

10. Ms. Polanco takes taxi service to go to appointments, the mall, friends' houses, the hospital and she has only used Reading Metro Taxi before but has experienced

problems with Reading Metro Taxi. N.T. 199-200.

11. Sometimes Metro taxi cabs smell like cigarette smoke and sometimes the driver is eating and the car is not clean. N.T. 200.

12. Most of the time Ms. Polanco feels safe, but sometimes “they drive crazy – fast.” N.T. 200. Also, the drivers take the long routes to the hospital or to the mall. N.T. 201.

13. Ms. Polanco has experienced long waiting times for Metro and has found difficulty in finding a cab when there was two inches of snow on the ground. N.T. 201-202.

14. Ms. Polanco is bilingual. Spanish is her primary language. N.T. 202.

15. Ms. Polanco has requested a bilingual driver for her mother who does not speak English, but she has not been able to obtain bilingual drivers consistently for her mother. N.T. 203-207.

16. Ms. Polanco’s mother has ended up at the wrong address because the driver did not understand the address given to him/her by the mother. N.T. 203-207.

17. Pedro A. Ramirez has had difficulty getting a taxi in Reading, sometimes waiting 40-50 minutes for a driver, and sometimes no cab showed up, especially during snowstorms. N.T. 121-122.

18. The taxi drivers Mr. Pedro A. Ramirez has met in Reading speak very little Spanish. N.T. 122-123.

19. The co-owners of DTE (Ms. Rodriguez and Pedro E. Ramirez) have extensive experience as drivers for schools or car services.

20. Neither owner has ever owned a taxi company before, but they have

sufficient assets to start a taxi company including a place to operate the company from, 1313 Moss Street, approximately \$18,000 in two accounts (\$10,000 belonging to DTE and \$8,000 in Ms. Rodriguez' personal account) as well as one or two vehicles Mr. Ramirez has paid for (except for sales tax). N.T. 26-32. Exhibits A-5, A-6, A-7, A-8, A-16, and A-17.

21. Curt Stricker is President of Reading Metro, Reading Checker and Reading Yellow Cab with a principal place of business located on Elm Street, Reading. N.T. 209.

22. Protestants have 58 drivers, 17 of which are Hispanic and bilingual. N.T. 210.

23. Mr. Stricker does not require a certain number of bilingual drivers be present on any particular shift. N.T. 223-224.

24. Two out of four dispatchers and all eight telephone operators are also bilingual. N.T. 211.

25. If a customer cannot communicate in English in one of Protestants' taxis, then the taxi driver can telephone an operator who will interpret for the customer and driver so they can communicate. N.T. 212.

26. Protestants' 35 cars go through a car wash at least once a week, and the insides of the cars are also cleaned regularly. N.T. 213.

27. Berks Taxi has 20 cars in Berks County. N.T. 214.

28. Grab-A-Cab has 12 cars in Berks County. N.T. 214.

29. Protestants' volume of business has decreased in the past year. N.T. 217.



30. Xiomara Carmen Rodriguez owns 49% of DTE, and currently works part time as a chauffeur/driver of school vans (maximum capacity 9 passengers) for the Berks County Intermediate Unit (BCIU). N.T. 9-10-13, 37. Exhibits A-2, A-3, and A-4.

31. Ms. Rodriguez has driven students to and from school in a van for six years and she has prior experience driving for schools in Queens, New York. N.T. 10.

32. Ms. Rodriguez has a good driving record which shows only one traffic accident on October 12, 2014 involving her personal vehicle. N.T. 11-13. Exhibit A-1.

33. DTE's dispatchers and drivers will be bilingual and will be able to communicate with passengers who only speak Spanish, no English. N.T. 20.

34. DTE intends to provide services during inclement weather because it has four-wheel drive vehicles. N.T. 20-22.

35. Two vehicles (a Toyota Sienna and a Hyundai Tucson) will initially be driven by Pedro E. Ramirez and Pedro A. Ramirez (brothers). N.T. 21, 29-30. Exhibits A-9 and A-10.

36. The cars were purchased in cash by Pedro E. Ramirez, for \$4,400-Toyota Sienna and \$4,600-Hyundai Tuscon plus taxes, but Mr. Ramirez intends to transfer the ownership to DTE. N.T. 30-31, 113-115.<sup>3</sup>

37. DTE is located out of Ms. Rodriguez' home, 1313 Moss Street, Reading. N.T. 22-23; Exhibit A-5 (deed).

---

<sup>3</sup> The vehicles identified in Exhibits A-9 and A-10 are not the same vehicles that are identified on page 2 of Exhibit A-11. The dates on Exhibits A-9 and A-10 are November 10, 2015, and November 17, 2015, which come after the date of November 9, 2015 in Exhibit A-11. Thus, the parties stipulated at hearing that the value of the vehicles insured is \$9,000 and not \$27,000 as indicated on the exhibit. N.T. 78.

38. Ms. Rodriguez has a zoning permit to operate DTE from her home during certain hours and park the vehicles there. N.T. 25; Exhibit A-6.

39. Ms. Rodriguez will be one of two dispatchers and she will continue working for BCIU only as a substitute driver. N.T. 24, 70-73.

40. Pedro A. Ramirez is the brother of Pedro E. Ramirez. N.T. 118.

41. Pedro A. Ramirez also lived in Queens, New York prior to Reading, Pennsylvania. He is retired from delivering medical supplies for the Brothers Car Service. N.T. 118.

42. Pedro A. Ramirez drove for A-1 International in New York, a delivery company. N.T. 124.

43. Pedro A. Ramirez has a valid Pennsylvania driver's license and has been offered employment as a day or night shift driver by his brother with DTE. N.T. 119-120.

44. DTE has an account balance as of November 18, 2015 of \$10,000. N.T. 26; Exhibit A-7.

45. DTE has an additional \$8,000 available to operate from Ms. Rodriguez' personal account. N.T. 27, Exhibit A-8.

46. Ms. Rodriguez currently earns approximately \$700 bi-weekly from her part-time job as a van driver. N.T. 39.

47. Pedro E. Ramirez was not employed at the time of the hearing, but he had worked as a driver for La Mexicana Express (a car service) for 15 months until February, 2015. N.T. 39, 88, 110.



48. Pedro E. Ramirez has lived in Reading for 12 years and currently resides at 1313 Moss Street, Reading, PA. N.T. 87.

49. In New York, Pedro E. Ramirez was a driver for Brothers Car Service, Inc., 241 Crescent St., Brooklyn, NY. He drove for a car service in Manhattan, Queens, Brooklyn, Long Island, and Queens, New York with an adequate driving record. N.T. 91, Exhibit A-14.

50. The cars Mr. Ramirez drove did not have meter service. N.T. 111.

51. There is one March 11, 2007 traffic violation in Pedro E. Ramirez's driving record, wherein he was ticketed for a traffic violation involving a stop sign; however, he has never been convicted of a crime. N.T. 94, 104; Exhibit A-18 (Criminal Background Check Report).

52. Pedro E. Ramirez had a drug test on November 18, 2015 which was negative. N.T. 105; Exhibit A-19.

53. Pedro E. Ramirez is 51% owner of DTE. N.T. 93; Exhibit A-4.

54. Pedro E. Ramirez will drug test drivers, train drivers, and be responsible for taking vehicles to mechanics for maintenance work. N.T. 96-97. Exhibit A-15.

55. The vehicles intended for use appear to be in clean condition and able to carry packages or suitcases. N.T. 99; Exhibits A-16 and A-17.

56. Ms. Rodriguez and Mr. Pedro E. Ramirez have 2 other cars which they will use for their personal use. N.T. 31-32.

57. The insurance premium cost for covering the Toyota Sienna and Hyundai Tucson is \$14,206 annually. N.T. 32, Exhibit A-11.

58. DTE is not asking for authority to be able to deliver packages and food as part of the taxi authority or airport authority. N.T. 108-110.

59. DTE will attempt to offer taxi service on “snow days” when other taxi companies are closed. N.T. 45-47.

60. DTE’s vehicles will offer rides to more than 4 people at a time. N.T. 47-48.

61. Thomas Loughlin, a business consultant, has a Masters in Business Administration (MBA) from Pepperdine University, California, and has completed postgraduate work at Oxford University in Economics, England. N.T. 130-132; Exhibit A-22 (curriculum vitae).

62. DTE is a viable company. N.T. 137, 151. Exhibit A-21 (Business Plan).

63. DTE will advertise on an internet website and through word-of-mouth canvassing of neighborhoods. N.T. 151.

64. There is a population of approximately 80,000 people residing in Reading, 56% of which are Latin of various Latin derivatives including: Puerto Rican, Mexican, or Dominican Republic. N.T. 146-147, 177.

65. The Hispanic demographic in Reading will benefit from DTE because the company will offer bilingual drivers and dispatchers. N.T. 147.

66. There is insufficient evidence to show DTE would harm the other certificated carriers because DTE has only two drivers and vehicles, and the demand in Reading is continuing to grow. N.T. 147, 177-178.

67. The fact that DTE has 4-wheel drive vehicles that can run in inclement weather (snow/icy rain) will benefit the Reading community. N.T. 148.

68. Mr. Ramirez and Ms. Rodriguez have enough capital and vehicle assets to start the business. N.T. 156. Exhibit A-21.

69. Although the Business Plan erroneously includes airport revenues and food delivery revenues, there is sufficient revenue from just on call or demand taxi service to show that the company is viable. N.T. 170.

### DISCUSSION

Applicant seeks authority to provide taxi service originating in the City of Reading, Berks County, Pennsylvania to places in Pennsylvania and return. The party seeking affirmative relief from the Commission bears the burden of proof. 66 Pa.C.S. § 332(a). This must be shown by a preponderance of the evidence. *Samuel J. Lansberry, Inc. v. Pa. Pub. Util. Comm'n*, 578 A.2d 600 (1990), *alloc, denied*, 602 A.2d 863 (1992). A preponderance of evidence is that which is more convincing, by even the smallest amount, than that presented by the other party. *Se-Ling Hosiery v. Margulies*, 364 Pa. 45, 70 A.2d 854, 1950 Pa. LEXIS 316 (1950).

Additionally, any finding of fact necessary to support the Commission's adjudication must be based upon substantial evidence. *Mill v. Pa. Pub. Util. Comm'n*, 447 A.2d 1100 (Pa.Cmwlth. 1982); *Edan Transportation Corp. v. Pa. Pub. Util. Comm'n*, 623 A.2d 6 (Pa. Cmwlth. 1993); 2 Pa.C.S. § 704. More is required than a mere trace of evidence or a suspicion of the existence of a fact sought to be established. *Norfolk and Western Ry. v. Pa. Pub. Util. Comm'n*, 489 Pa. 109, 413 A.2d 1037 (1980); *Erie Resistor Corp. v. Unemployment Compensation Bd. Of Review*, 166 A.2d 96 (Pa.Super. 1960); *Murphy v. Dep't. of Public Welfare, White Haven Center*, 480 A.2d 382 (Pa. Cmwlth. 1984).

The “burden of proof” is composed of two distinct burdens: the burden of production and the burden of persuasion. *Hurley v. Hurley*, 2000 Pa.Super. 178, 754 A.2d 1283 (2000).

The standard used by the Commission to evaluate motor carrier applications is as follows:

**§ 41.14. Evidentiary criteria used to decide motor common carrier applications—statement of policy.**

(a) An applicant seeking motor common carrier authority has a burden of demonstrating that approval of the application will serve a useful public purpose, responsive to a public demand or need.

(b) An applicant seeking motor common carrier authority has the burden of demonstrating that it possesses the technical and financial ability to provide the proposed service. In addition, authority may be withheld if the record demonstrates that the applicant lacks a propensity to operate safely and legally. In evaluating whether a motor carrier applicant can satisfy these fitness standards, the Commission will ordinarily examine the following factors, when applicable:

(1) Whether an applicant has sufficient capital, equipment, facilities and other resources necessary to serve the territory requested.

(2) Whether an applicant and its employees have sufficient technical expertise and experience to serve the territory requested.

(3) Whether an applicant has or is able to secure sufficient and continuous insurance coverage for all vehicles to be used or useful in the provision of service to the public.

(4) Whether the applicant has an appropriate plan to comply with the Commission’s driver and vehicle safety regulations and service standards contained in Chapter 29 (relating to motor carriers of passengers).

(5) An applicant's record, if any, of compliance with 66 Pa.C.S. (relating to the Public Utility Code), this title and the Commission's orders.

(6) Whether an applicant or its drivers have been convicted of a felony or crime of moral turpitude and remains subject to supervision by a court or correctional institution.

(c) The Commission will grant motor common carrier authority commensurate with the demonstrated public need unless it is established that the entry of a new carrier into the field would endanger or impair the operations of existing common carriers to an extent that, on balance, the granting of authority would be contrary to the public interest.

(d) Subsections (a) and (c) do not apply to an applicant seeking authority to provide motor carrier of passenger service under §§ 29.331—29.335 (relating to limousine service).

52 Pa.Code § 41.14.

The Commission has stated that it promulgated the transportation regulatory policy statement at 52 Pa. Code § 41.14 “to eliminate monopolistic protection of existing motor carriers and to promote healthy competition among motor carriers for the purpose of assuring the availability of transportation service commensurate with the demonstrated public demand/need.”

In Re: Blue Bird Coach Lines, Inc., 72 Pa. P.U.C. 262, 274 (1990) (Blue Bird).

### **Useful Public Purpose and Responsive to Demand or Need – §41.14(a)**

Pursuant to the above standard, the first burden of proof that an applicant seeking motor common carrier authority must carry is demonstrating that approval of the application will serve a useful public purpose, responsive to a public demand or need. 52 Pa.Code § 41.14(a).

In Blue Bird, the Commission further explained the evidentiary burden concerning public demand or need as follows:

When, through relevant, probative, competent and credible evidence of record, a motor common carrier applicant has shown

that the applicant's proposed service will satisfy the supporting witnesses' asserted transportation demand/need, the applicant has sustained its burden of proof under subsection 41.14 (a) by establishing that, "approval of the application will serve a useful public purpose, responsive to a public demand or need."

\* \* \*

The witnesses supporting a motor common carrier application must be legally competent and credible . . . , and their testimony must be probative and relevant to the application proceeding . . . . The supporting witnesses must articulate a demand/need for the type of service embodied in the application . . . . Moreover, the supporting witnesses must identify Pennsylvania origin and destination points between which they require transportation, and these points must correspond with the scope of the operating territory specified in the application. . . . [citations and footnotes omitted].

Id. at 274-275.

Furthermore, in Blue Bird, the Commission stated that it considered "demand" and "need" as used in 52 Pa. Code §41.14(a) to be "interchangeable terms." Id. at 272.

In Waldron v. Philadelphia Electric Company (Waldron), 54 Pa. PUC 98 (1980), the Commission explained the process of meeting the burden of proof. In accordance with Waldron and the previously-cited legal standards, Applicant has the burden to put forth evidence establishing a prima facie case as to need and technical and financial fitness for the proposed service. If Applicant establishes a prima facie case, the burden of going forward, but not the ultimate burden of proof, shifts to the Protestant to rebut the prima facie case with evidence which is at least co-equal. If Applicant's evidence is rebutted to the legally required extent, the burden of going forward shifts back to the Applicant, which must rebut the adverse party's evidence by a preponderance of the evidence. Poorbaugh v. West Penn Power Company (Poorbaugh), 1994 Pa. PUC LEXIS 95.

An applicant is not required to establish a public demand or need for the proposed transportation in each and every point within the proposed service territory. Rather, it is sufficient if an Applicant establishes a cross section of public demand or need for the proposed

service in the proposed service territory. Morgan Drive Away, Inc. v. Pa. Pub. Util. Comm'n, 512 A.2d 1359 (Pa.Cmwlth. 1986); and Purolator Courier Corp. v. Pa. Pub. Util. Comm'n, 414 A.2d 450 (Pa.Cmwlth. 1980).

The number of witnesses required to comprise a cross section of the public on the issue of public demand or need for an Applicant's proposed service will necessarily vary with the circumstances of the case such as the scope of the requested operating authority and the population density in the intended operating territory. Blue Bird at 274. Where the applicant seeks a narrow grant of operating authority, fewer witnesses are required to show a cross section of the public needing the applicant's proposed transportation in the intended operating territory. *Id.* at 275.

Recently, the Commission entered an Opinion and Order In re: Application of James L. Henderson, Jr., for the right to transport, as a common carrier, by motor vehicle, persons in call or demand service, from points in the City of Carlisle, Cumberland County, to points in Pennsylvania, and return. Docket No. A-2014-2416668 (Henderson) (Opinion and Order entered September 3, 2015). The Commission held that although it did not mandate the offering of public witness testimony in all instances, such testimony is important in helping to establish public need or demand. The Commission found that the testimony of Mr. Henderson regarding public need alone was insufficient to meet his burden of proof regarding this test. Although Mr. Henderson was a former driver for a defunct taxi company (AAA Moonlight Taxi) in the City of Carlisle as of 2013, and he testified that there was a need for his new taxi service, the lack of witness testimony by potential customers or the presentation of any other substantive evidence of need resulted in the Commission denying Mr. Henderson's application.

The Commission noted in the Henderson case that the Commission routinely accepts written verified statements in support of public need without requiring testimony from a live witness; however, Mr. Henderson did not submit any witness statements in support of his Application. *Id.* at footnote 4, p. 14.

The Henderson case may be distinguished from the instant case because DTE offered testimony of three witnesses who were not the owners of the company but who testified as to need and that they would use DTE for taxi service between points located in the City of Reading.

Lordes Alvelo testified that she resides at 4926 Kutztown Rd., Temple, PA, in the city of Reading. N.T. 189. She testified although she has a driver's license, she does not own a car and she frequently uses taxicabs to go to appointments and for shopping. N.T. 189. Ms. Alvelo has used Metro, and tried to use Grab-A-Cab but they never came. N.T. 190. She has a problem with the length of time she waits for Metro. She has waited an hour for Metro and has been late to work and other appointments because of waiting for taxi service. N.T. 190. Ms. Alvelo does not complain about the cab fare of Metro, just the long waiting periods of up to an hour and a half, even though she was told the wait would be approximately 30 – 40 minutes. N.T. 191. She has had difficulty obtaining a cab in inclement weather during snowfall. N.T. 192-193. Ms. Alvelo is bilingual and speaks English and Spanish fluently. N.T. 194-195. She believes that it would be helpful to her community if DTE were to receive a certificate because of the bilingual drivers, the shortening of waiting times, and the availability of taxi service during inclement weather. N.T. 195. Ms. Alvelo testified she used taxicab service between points to and from work and the movies all within the city of Reading. N.T. 197. I find her testimony credible.

Perla Polanco testified she has resided at 1039 Locust Street, Reading, PA for eight years. N.T. 198-199. She uses a taxi cab every day because she doesn't drive. She has no driver's license or car. N.T. 199. Ms. Polanco takes taxi service to go to appointments, the mall, friends' houses, the hospital. She has only used Metro before and has experienced problems with Metro. N.T. 199- 200. She testified the taxi cabs sometimes smell like cigarette smoke. Sometimes the driver is eating and the car is not clean. N.T. 200. Most of the time she feels safe, but sometimes "they drive crazy – fast." N.T. 200. Also, the drivers take the long routes to the hospital or to the mall. N.T. 201. Ms. Polanco has experienced late drivers and has found difficulty in finding a cab during a light snow. N.T. 201-202. Ms. Polanco is bilingual. Spanish is her primary language. N.T. 202. She has requested a bilingual driver for her mother who does



not speak English, but she has not been able to obtain bilingual drivers consistently for her mother. Her mother has ended up at the wrong address because the driver did not understand the address given to him/her by the mother. N.T. 203-207. I find Ms. Polanco's testimony to be credible.

There are no written requests or statements in this case. However, the testimonies of Ms. Polanco and Ms. Alvelo corroborate the testimony of Mr. Pedro A. Ramirez (brother of owner Pedro E. Ramirez) who testified he also has had difficulty getting a taxi in Reading, sometimes waiting 40-50 minutes and sometimes no show especially during snowstorms. N.T. 121-122. Also, the taxi drivers he has met in Reading speak very little Spanish. N.T. 122-123. Mr. Ramirez will be one of two drivers for DTE.

The Commission has found public need exists when very few individuals testify to this fact. See Application of Lyft, Inc., Docket No. A-2014-2415047 (Order entered December 18, 2014).<sup>4</sup> See also, Application of AAA Alpine Taxicab Co., LLC, Docket No. A-00121832 (Order entered November 28, 2006). In unprotested cases, the Commission routinely accepts as evidence only written verified statements in support of public need and taxi cab applications without requiring in person testimony from these individuals.

The testimonies of these three individuals is sufficient to show by a preponderance of evidence that there is public need in the City of Reading for taxi service in addition to the existing service, and especially during inclement weather for customers who speak Spanish as their primary language.

### **Endangerment or Impairment to existing Competitors**

Mr. Curt Stricker testified he is President of Reading Metro, Reading Checker and Reading Yellow Cab, with a principal place of business located at 615 Elm St., Reading, PA. N.T. 209. Mr. Stricker has been in the taxicab business in Reading for 35 years. N.T. 210. He

---

<sup>4</sup> Lyft, Inc. and Uber (trading as Raiser) are Transportation Network Companies (TNCs) conditionally authorized by the Commission to offer taxi service except that TNC drivers use their own personal private vehicles. See Docket Nos. A-2014-2424608, A-2014-2416127, A-2014-2415045 and A-2014-2415047.

testified he has 58 drivers, 17 of which are Hispanic and bilingual. N.T. 210. He does not require a certain number of bilingual drivers on any shift. N.T. 223-224. Two out of four dispatchers and all eight telephone operators are also bilingual. N.T. 211. Mr. Stricker testified if a customer cannot communicate in English with a driver, the driver can telephone the company and an operator will interpret for the customer and driver so they can communicate. N.T. 212. He is unaware of any situation where a driver was not able to comply with a destination because of a language problem. N.T. 212. He testified his cars go through a car wash at least once a week, and the insides of the cars are also cleaned regularly. He has 35 cars. N.T. 213.

With regards to any harm to existing carriers operating in Reading, Mr. Stricker believes Grab A Cab has 12 cars in Berks County. He believes Berks Taxi has 20 cars. N.T. 214. Mr. Stricker is aware of other car services operating in Reading (i.e. Mexicana Taxi and Wyomissing Car Service). N.T. 215. Mr. Stricker testified the volume of business that Reading Metro, Reading Yellow, and Reading Checker have done has decreased over 20 percent in the past year. N.T. 217.

Based upon the foregoing, I conclude that Applicant has established a *prima facie* case that the proposed service serves a useful public purpose, which is responsive to a public demand or need to the niche market of Hispanics residing in Reading who rely heavily on cab service for transportation. The testimonies of Ms. Alvelo, Ms. Polanco and Mr. Ramirez show there is a delay in taxi service in the city of Reading and that DTE may address a need for new service, which will provide rides during inclement weather with bilingual drivers. By allowing DTE into the market, those passengers who do not speak English, such as Ms. Polanco's mother, will have an alternative cab company to contact and may receive better service.

Since a *prima facie* case of need has been established, the burden of going forward, in accordance with Waldron, *supra*, shifts to the Protestant to rebut the *prima facie* case with evidence which is at least co-equal. In that regard, I have considered the totality of Protestants' evidence, as presented through only one witness, Mr. Stricker, President of Reading Metro, Yellow Cab, and Reading Checker. Although I find Mr. Stricker credible that his 35 vehicles are generally kept clean, I do not find his testimony that there is always one bilingual

driver on the roads to be sufficient to find that there is no need for more bilingual drivers in Reading. There appears to be a need for more bilingual drivers. By Mr. Stricker's own testimony, if a driver does not speak Spanish, he/she can call an operator and communicate with a passenger through an operator interpreting the conversation. While this is helpful, this communication relies on a good connection via cell phone, and does not seem to be as good as a bilingual driver present in the vehicle with the passenger who only speaks Spanish.

Accordingly, I conclude that Protestants have not rebutted the Applicant's *prima facie* case that the Application will serve a useful public purpose, responsive to a public demand or need. Therefore, I conclude, based on this record, that Applicant has met its burden of proof on the issue of need for the proposed service.

Having satisfied the "need" requirement, the analysis turns to the ability of the Applicant to provide safe, adequate and reasonable service. The factors of Section 41.14(b) are addressed below.

#### **Technical and Financial Fitness – §41.14(b)**

After an applicant for motor carrier authority has met its burden of proving public demand or need and fitness, the next consideration is whether the record demonstrates a lack of propensity on the part of the applicant to operate safely and legally. This finding must be based upon the totality of a record which demonstrates conclusively that an applicant will not operate safely or legally. The applicant has no affirmative duty to prove that it will operate safely and legally. See, Application of Mahmoud Awad, Docket No. A-00119891, Commission Order acknowledging finality of ALJ Cocheres' Initial Decision entered January 3, 2005.

If the totality of the record fails to establish a lack of propensity to operate safely and legally, and the public demand and fitness requirements are met, then the applicant is entitled to a grant of authority commensurate with the demonstrated public need, unless it is shown that the entry of a new carrier into the field would endanger or impair the operations of

existing common carriers to such an extent that, on balance, the granting of authority would be contrary to the public interest. 52 Pa.Code §41.14(c).

Commission regulations at 52 Pa.Code §41.14 provide the criteria which must be met by Applicants seeking motor common carrier authority to establish financial fitness. As stated therein, Applicants must demonstrate that they have “sufficient capital, equipment, facilities and other resources necessary to serve the territory requested.”

In Application of Raymond P. Sutherland, Docket No. A-00122346, Opinion and Order entered June 5, 2007 (Application of Sutherland), the Commission considered what was meant by the term *sufficient capital* in the context of 52 Pa. Code §41.14. In so doing, the Commission observed that there was no regulatory definition and no statute or decisional law providing any specific monetary or other standards necessary to meet the *sufficient capital* requirement. Accordingly, the Commission concluded that the determination of financial fitness was within its discretion, on a case-by-case basis, with the primary concern being the adequacy of service to the public.

I find the owners of the company to be technically fit. Xiomara Carmen Rodriguez, co-owner of Applicant, testified that she currently works for Berks County Intermediate Unit as a chauffeur/driver of school vans (maximum 9 passengers). N.T. 9-10, 13, 37. She has driven students to and from schools in Berks County for the past six years. N.T. 10. She does not have a commercial driver’s license. N.T. 37. Previously, Ms. Rodriguez was a driver for Logan Bus Company in New York. She drove school vehicles in Queens, Brooklyn, Bronx, New York. N.T. 10. She has never had any traffic incidences as a driver for BCIU or as a driver in New York. N.T. 11-12. Exhibit A-1. She has one traffic accident listed on her driving record from October 12, 2014, but this involved her personal vehicle, and did not occur while she was within the scope of her employment as a driver. N.T. 12-13. Exhibit A-1.

Ms. Rodriguez co-owns DTE with her fiancé, Pedro E. Ramirez. N.T. 14. She owns 49% of the company. N.T. 14. Exhibits A-2 (Application for Dept. of State), A-3 (Subsistence Certificate) and A-4 (operating agreement dated 1/28/15). I find her testimony

credible that her intention is to provide in call or demand services to the community of Reading and especially the Hispanic community including services to hospitals, immigration, airport, stores, supermarkets, schools, homes, and work. N.T. 20. Ms. Rodriguez may not have been aware that the authority DTE seeks does not specifically include expressage or airport transport authority; however it is noted that at the hearing the parties stipulated to the fact that the Application does not request airport transport authority and Mr. Pedro E. Ramirez testified he was not seeking airport authority; thus, none will be granted.

DTE's dispatchers and drivers will be bilingual and will be able to communicate with passengers who only speak Spanish, no English. N.T. 20. Further, DTE intends to provide services during inclement weather because it has four-wheel drive vehicles. N.T. 20-22. Two vehicles (a Toyota Sienna and a Hyundai Tucson) will initially be driven by Pedro E. Ramirez and Pedro A. Ramirez (brothers). N.T. 21, 29-30. Exhibits A-9 and A-10. The cars were purchased in cash by Pedro E. Ramirez, for \$4,400-Toyota Sienna and \$4,600-Hyundai Tucson plus taxes, but Mr. Ramirez intends to transfer the ownership to DTE. N.T. 30-31, 113-115. The drivers will be paid \$12/hour. N.T. 25. Within Reading, the fare charge will be \$8 from 7 – 8 blocks. Outside of Reading, \$1.80 per mile. N.T. 22. This testimony indicates a misunderstanding of the Commission's requirements regarding meters set forth in 52 Pa.Code § 29.314(b), but it alone does not warrant a finding that DTE is technically unfit. Its owners should familiarize themselves more with regulatory requirements. DTE will be required to file and have an approved tariff in effect before it may begin operations in Pennsylvania. There will be no "surge pricing" allowed. N.T. 169.

The business is located out of Ms. Rodriguez's home, 1313 Moss Street, Reading. N.T. 22-23; Exhibit A-5 (deed). She has a permit from Reading to operate from her home and park the vehicles there. N.T. 25; Exhibit A-6. Ms. Rodriguez will be the dispatcher from 6 a.m. to 6 p.m. and she will continue working for BCIU only as a substitute driver. N.T. 24, 70-72. There will be another employee dispatcher to cover for her when she substitutes. N.T. 73. I am persuaded to find that she has a zoning permit to operate during certain hours of the day (although not 24 hours a day), and this is sufficient to begin operations.

Pedro A. Ramirez appears to be a competent driver with a propensity to drive lawfully. He is the brother of Pedro E. Ramirez. N.T. 118. He also lived in Queens, New York prior to Reading, Pennsylvania. He is retired from delivering medical supplies for the Brothers Car Service. N.T. 118. He also drove for A-1 International in New York, a delivery company. N.T. 124. He has a valid Pennsylvania driver's license. N.T. 119. Exhibit A-20. He has been offered employment by his brother with DTE. N.T. 120. He could do the day or night shift of driving with his brother. N.T. 120.

The company and its owner appear to be financially fit. Exhibit A-7 is a bank statement from Riverfront Federal Credit Union showing DTE has a balance as of November 18, 2015 of \$10,000. N.T. 26; Exhibit A-7. DTE has \$10,000 in cash available to operate. Further, DTE has an additional \$8,000 available to operate from Ms. Rodriguez' personal account. N.T. 27, Exhibit A-8. Ms. Rodriguez currently earns approximately \$700 bi-weekly from her part-time job as a van driver. N.T. 39. Mr. Pedro E. Ramirez was not employed at the time of the hearing, but he had worked as a driver for La Mexicana Express since February, 2015. N.T. 39. Ms. Rodriguez pays approximately \$570 per month for a 30-year mortgage and home insurance for her residence. N.T. 53.

Pedro E. Ramirez testified he also resides at 1313 Moss Street, Reading, PA. N.T. 87. He has been a resident of Reading, PA for 12 years. He previously lived in Queens, New York. N.T. 88. He worked as a driver for fifteen months with Mexicana Taxi (a "car service") until February, 2015. N.T. 88, 110. In New York, he was a driver for Brothers Car Service, Inc., 241 Crescent St., Brooklyn, NY. He drove for a car service in Manhattan, Queens, Brooklyn, Long Island, and Queens, New York with an adequate driving record. N.T. 91, Exhibit A-14. The car he drove did not have meter service. N.T. 111. There was one traffic violation in his record of March 11, 2007, wherein he was ticketed for a traffic violation involving a stop sign. N.T. 92. He has never been convicted of a crime. N.T. 104; Exhibit A-18 (Criminal Background Check Report). He had a drug test on November 18, 2015 which was negative. N.T. 105; Exhibit A-19. He is 51% owner of DTE. N.T. 93; Exhibit A-4. Mr. Ramirez will drug test drivers, train drivers, be responsible for taking vehicles to mechanics for maintenance

work. N.T. 96-97. Exhibit A-15. The vehicles intended for use appear to be in clean condition and able to carry packages or suitcases. N.T. 99; Exhibits A-16 and A-17.

Ms. Rodriguez and Mr. Pedro E. Ramirez have 2 other cars which they will use for their personal use. N.T. 31-32. The insurance premium cost for covering the Toyota Sienna and Hyundai Tucson is \$14,206 annually. N.T. 32, Exhibit A-11.

Ms. Rodriguez testified DTE intends to provide food delivery service to elderly people who have difficulty leaving their homes. N.T. 44. This expressage service was not specifically detailed in the Application, and generally is not permitted unless the certificate expressly states as such. 52 Pa.Code § 29.313(e) (relating to expressage). As permission to provide expressage service was not included in the Application and because Mr. Pedro E. Ramirez (co-owner) testified they would not be delivering food, there will be no such provision in the certificate of public convenience.

Mr. Pedro E. Ramirez (51% owner) testified though that he is not asking for authority to be able to deliver packages and food as part of the taxi authority or airport authority. N.T. 108-110. Ms. Rodriguez testified DTE would offer taxi service on “snow days” when other taxi companies are closed. N.T. 45-47. Ms. Rodriguez testified her vehicles could offer rides to more than 4 people at a time. N.T. 47-48. Although Ms. Rodriguez testified they would provide service to/from airport, and could transport large number of passengers, the parties stipulated at the hearing Applicant understood it would have to file an amendment to the application if it were to seek airport transport authority or group/party transport authority because these were not specifically requested in the filing. N.T. 50.

I base my findings of technical and financial fitness also on the testimony of Thomas Loughlin, a business consultant, who authored Exhibit A-21, the Business Plan for DTE. Mr. Loughlin has a Masters in Business Administration (MBA) from Pepperdine University, California, and has completed postgraduate work at Oxford University in Economics, England. N.T. 130-132; Exhibit A-22 (curriculum vitae). He was accepted by me as an expert in the field of business planning. N.T. 145. Mr. Loughlin opined that DTE is a viable company. N.T. 137,

151. He bases this opinion upon his interviews with the owners of DTE as well as the driving records of the drivers/owners, their experience and knowledge of the Reading market, and their plans for vehicle maintenance. N.T. 137, 151.

Mr. Loughlin believes the company will advertise on an internet website and through word-of-mouth canvassing of neighborhoods. N.T. 151. His opinion regarding the Hispanic market in Reading is based upon his research on the Internet, specifically Wikipedia, population sites, US Census Reports and he opined there is a population of approximately 80,000 people residing in Reading, 56% of which are Latin, of various Latin derivatives: Puerto Rican, Mexican, or Dominican. N.T. 146-147, 177. Mr. Loughlin believes the Hispanic demographic would utilize DTE because the company will offer bilingual drivers and dispatchers. N.T. 147. He further opined that DTE would not harm the other businesses because demand in Reading is continuing to grow. N.T. 147, 177-178. Further, the fact that DTE has 4-wheel drive vehicles that can run in inclement weather (snow/icy rain) will benefit the Reading community. N.T. 148. Mr. Loughlin believes the Latin community in Reading “relies heavily” on cabs to get around. N.T. 150.

Mr. Loughlin testified if you take revenues from deliveries from his projections in the business plan that is a negligible difference of only \$1,700 a year. He projected net profits for year one to be approximately \$54,163. N.T. 154. In Mr. Loughlin’s opinion, Mr. Ramirez and Ms. Rodriguez have enough capital and vehicle assets to start the business. Based upon the number of cars they own and cash on hand, they have enough money to start the business. N.T. 156. Based upon his projections, Mr. Loughlin does not predict DTE running out of cash at any point. N.T. 157. Exhibit A-21. He predicts a compound annual growth rate for Applicant of 5% monthly or 60% annually. N.T. 183. He considered DTE’s main competitors the Reading area in calculating his projections. N.T. 186.

Although on cross examination, Mr. Loughlin admits he included revenues for airport trips, and delivery trips in his projections, these revenues do not substantially change his ultimate conclusion that the company is viable and will not run out of cash flow if they



were to receive on call or demand authority (taxi authority) only. N.T. 170. The “party trips” were limited to the seating capacities of the two vehicles he was aware of, Toyota Sienna and Hyundai Tuscon. N.T. 188.

Based upon the foregoing, I conclude that Applicant has established by a preponderance of evidence that it is financially and technically fit to operate. Applicant presented a Business Plan, noted previously, to comply with the Commission’s vehicle safety regulations and service standards. Applicant also presented his driver standards, which included: a clean criminal record, knowledge of the roads within the service area, criminal background checks, and drug testing results. Applicant has received pre-approval for insurance coverage for the two vehicles listed in its Business Plan. There is no evidence of record that Applicant’s drivers have been convicted of a felony or crime of moral turpitude or that they have ever been cited by the Commission for regulatory violations.

Protestants presented no evidence as to any propensity on the part of Applicant not to operate safely and legally. The mere fact that as service car drivers the Ramirez brothers had no experience working with meters, is insufficient to show they will not operate safely or legally. The driving records of the two drivers as well as the dispatcher are adequate to show a long history of safe and legal driving in New York and Pennsylvania. Further, Mr. Ramirez passed a drug test, and there is no evidence to show any of the proposed drivers have been convicted of a crime other than a minor traffic offense, and they have been subjected to and have passed drug tests. Mr. Pedro E. Ramirez has familiarity with cars and will take his vehicles to be maintained by a mechanic, and the photographs shown at the hearing are persuasive that the vehicles purchased may have 4-wheel drive, are mid-sized passenger vehicles that are in clean conditions.

Upon consideration of the totality of the record, I conclude that there is no basis upon which to conclude that Applicant will not operate safely and legally and therefore, this evidentiary criterion in 52 Pa. Code §41.14 has been satisfied.

## Endanger or Impair Existing Common Carriers — § 41.14(c)

Applicant has satisfied the requirements for the grant of a certificate of public convenience. The analysis turns to the Protestants' cases, as the Commission will grant the authority *commensurate with public need unless it is established that the entry of a new carrier into the field would endanger or impair the operations of existing common carriers to an extent that, on balance, the granting of authority would be contrary to public interest.* 52 Pa.Code § 41.14(c).

There is a claim that the addition of Applicant's taxi would endanger or impair Reading Checker, Reading Metro and Yellow Cab's operations. As the Commission has stated:

Subsection 41.14(c) emphasizes the advantages of healthy competition in the motor carrier industry and recognizes that "[t]he legislature in enacting the Public Utility Code did not intend to benefit established carriers by erecting artificial barriers to the entry of new competitors. It is the public interest and convenience which the law seeks to protect." *Mobilfone of Northeastern Pennsylvania v. Pennsylvania Public Utility Commission*, 73 Pa. Commonwealth Ct. 340, 346, 458 A.2d 1030, 1034 (1983); *Purolator Courier Corp. I*; *Re Mobilfone of Northeastern Pennsylvania, Inc.*; *Re Ben Franklin Carriages, Inc.* To prevent the Commission's approval of an application, existing common carriers/protestants must carry a heavy burden of proof under subsection 41.14(c); they must show that the entry of a new carrier into the transportation field would endanger or impair their existing operations to such an extent that, on balance, the granting of the requested authority would contravene the public interest. See, e.g., *Yellow Cab Co. of Pittsburgh*; *Seaboard Tank Lines, Inc.*

Both Pennsylvania appellate courts and the Commission have repeatedly advised that "[n]o carrier has a right to be guaranteed freedom from competition." *Mobilfone of Northeastern Pennsylvania, Inc.*, 73 Pa. Commonwealth Ct. at 351, 458 A.2d at 1037 (quoting *Reeder v. Pennsylvania Public Utility Commission*, 192 Pa. Superior Ct. 298, 303, 162 A.2d 231, 233 (1960)); *Noerr Motor Freight, Inc.*; *Re Mobilfone of Northeastern Pennsylvania, Inc.*; *Re Ben Franklin Carriages, Inc.* The existence of adequate service by extant carriers does not, by itself, preclude the granting of a certificate to an applicant. *Seaboard Tank Lines, Inc.*; *Re Ben Franklin Carriages, Inc.* Thus, the mere potential for diversion of

traffic volume from existing carriers to an applicant is insufficient to sustain the protesting carriers' burden of proof under subsection 41.14(c). *Railway Express Agency, Inc. v. Pennsylvania Public Utility Commission*, 195 Pa. Superior Ct. 394, 171 A.2d 860 (1961); *Re Ben Franklin Carriages, Inc.*; *Re Perkiomen Airways, Ltd.*, 51 Pa. P.U.C. 267 (1977). In some instances, an increase in competition will tend to improve the service and efficiency of other carriers in the market. *Noerr Motor Freight, Inc.*; *Re Mobilfone of Northeastern Pennsylvania, Inc.*; *Re Perkiomen Airways, Ltd.*

Only the threat of unrestrained and destructive competition which is inimical to the public interest precludes the grant of an application pursuant to subsection 41.14(c). *Yellow Cab Co. of Pittsburgh*; *Seaboard Tank Lines, Inc.*; see *Brink's Inc. v. Pennsylvania Public Utility Commission*, 56 Pa. Commonwealth Ct. 371, 424 A.2d 1010 (1981); *Purolator Courier Corp. I*; *McNaughton Bros., Inc.*; *John O. Dulaney*; *Re Ben Franklin Carriages, Inc.*; 66 Pa. C.S. § 2501.

#### Blue Bird.

The Protestants have the burden of proving that entry of a new carrier would endanger or impair existing operations so that, on balance, the granting of the authority would be contrary to the public interest. *Morgan Drive Away, Inc.*, *supra*. Mr. Stricker only testified regarding harm to his three operations located in Reading, but which have authority beyond just the city of Reading. Mr. Stricker testified his volume has decreased by 20% in the past year, but did not explain why it decreased, or whether the introduction of DTE in Reading would adversely impair the Protestants' existing operations such that the granting of the authority would be contrary to public interest. Further, Mr. Stricker offered no evidence to support his assertion of a 20% volume loss and was unspecific as to whether this applied as an average loss to all three entities or not. He did testify demand was decreasing in Reading. However, he did not specifically refute the testimony of Mr. Loughlin that the population of Hispanics in Reading was growing.

Protestants have failed to prove that the introduction of another small taxi company into Reading will have such a harmful effect. Accordingly, the protests will be dismissed.

## CONCLUSION

I find, for the reasons set forth herein, that Applicant has met its burden of proof regarding need and technical and financial fitness, as the Applicant's *prima facie* case has not been rebutted. The testimonies of Xiomara Carmen Rodriguez, Pedro A. Ramirez, Pedro E. Ramirez, Thomas Loughlin, Lordes Alvelo, and Pela Polanco as corroborated by Applicants' Exhibits are sufficient to show by a preponderance of evidence that there is a public demand or need in the city of Reading for additional taxi service with bilingual drivers and 4-wheel drive vehicles, and that Applicant is both technically and financially fit to operate. The authority sought in the instant case is new, not an extension of an existing authority. The authority sought is intended to provide new service in that the drivers will be bilingual and will operate 4-wheel drive vehicles in inclement weather in Reading, targeting an underserved Hispanic market of customers who speak Spanish as their primary or only language and desire timely cab service in inclement weather.

In addition, there is insufficient evidence that the grant of the certificate will endanger or impair the Protestants' existing operations. The sole testimony of Mr. Stricker is uncorroborated by any other evidence showing how further competition in Reading would endanger Protestants' operations. His testimony was speculative that the competition will negatively impact its cash flow as no supporting documentation was offered. I did not find his guarantee that his companies always had at least one available bilingual driver on the roads to be credible as he admitted that only 17 of his drivers for the three companies were bilingual and that these drivers were independent contractors who decided their own schedules.

Although Mr. Stricker was credible that his vehicles were clean and that he had operators generally available to translate between passengers and the drivers over a cell phone, this is not comparable to having a bilingual driver.

I am unconvinced that Dominicana Taxi Express, LLC would endanger or impair the operations of existing common carriers to an extent that, on balance, the granting of authority would be contrary to the public interest. The company will be small, beginning with just two

drivers, two dispatchers, and operating out of the residence of one of the two co-owners. The company will have one vehicle and driver on the road at a time.

Thus, I conclude, that the Application should be granted and a certificate of public convenience issued, consistent with the demonstrated public need for call or demand service in the city of Reading. Applicant has established public need, technical and financial fitness, and safe and legal operations; therefore, upon compliance with the provisions in the Ordering Paragraphs below, should commence the authorized service without further delay.

### CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the parties and subject matter in this proceeding. 66 Pa.C.S. §§1102, 1101, 1103.

2. Applicant has the burden of proof as to public need or demand for the proposed additional service and as to technical and financial fitness. 66 Pa. C.S. §332(a), 52 Pa.Code §41.14(a) and (b); Application of Blue Bird Coach Lines, 72 Pa. PUC 262, 271 (1990).

3. Applicant has no affirmative duty to prove that he will operate safely and legally; instead, this finding must be based upon the totality of the record. Application of Mahmoud Awad, Docket No. A-00119891, (Final Order entered January 3, 2005).

4. Applicant has sustained his burden of demonstrating that approval of the Application will serve a useful public purpose, responsive to a public demand or need, throughout the requested territory. 52 Pa.Code §41.14(a).

5. Applicant has sustained his burden of proving that he possesses the technical and financial ability to provide the proposed service. 52 Pa. Code §41.14(b).

6. The evidence of record, taken as a whole, does not demonstrate that the Applicant lacks a propensity to operate safely and legally. 52 Pa.Code §41.14(b).

7. Since Applicant has sustained his burden of proof, the Application should be approved and a certificate of public convenience issued to include the requested operating rights. 66 Pa.C.S. §1103(a).

8. Applicant has sufficient capital, equipment, facilities and other resources necessary to serve the territory requested.

9. Applicant and its employees have sufficient technical expertise and experience to serve the territory requested.

10. Applicant is able to secure sufficient and continuous insurance coverage for all vehicles to be used in the provision of service to the public.

11. Applicant has an appropriate plan to comply with the Commission's driver and vehicle safety regulations and service standards contained in Chapter 29 (relating to motor carriers of passengers).

12. Applicant has no record of non-compliance with 66 Pa.C.S. (relating to the Public Utility Code), this title and the Commission's orders.

13. Applicant has not been convicted of a felony or crime of moral turpitude and remains subject to supervision by a court or correctional institution.

14. The Commission will grant motor common carrier authority commensurate with the demonstrated public need unless it is established that the entry of a new carrier into the field would endanger or impair the operations of existing common carriers to an extent that, on balance, the granting of authority would be contrary to the public interest. 52 Pa.C.S. § 41.14(c).

15. Protestants have not established that the entry of a new carrier into the field would endanger or impair the operations of existing common carriers to an extent that, on balance, the granting of authority would be contrary to the public interest.

ORDER

THEREFORE,

IT IS ORDERED:

1. That the Application of Dominicana Taxi Express, LLC for the right to transport by motor vehicle, from points in the city of Reading, Berks County to points in Pennsylvania, and return, Docket No. A-2015-2471494, is approved.
2. That the protests filed by Reading Yellow Cab, Inc., Reading Metro Cab, Inc., and Reading Checker Cab, Inc. are dismissed.
3. That Dominicana Taxi Express LLC shall not engage in any transportation the authority of which is granted herein until the following is submitted to the Commission:
  - a. Form E evidence of Bodily Injury and Property Damage Liability Insurance; and
  - b. A tariff establishing just and reasonable rates.
4. That upon completion with the requirements set forth above, a Certificate of Public Convenience shall be issued evidencing Commission approval of the rights to operate as described above.

5. That Dominicana Taxi Express, LLC shall comply with the provisions of the Public Utility Code, 66 Pa.C.S. §§ 101 *et seq.* and the regulations of the Commission at 52 Pa.Code §§ 1.1 *et seq.*

Dated: March 29, 2016

\_\_\_\_\_/s/  
Elizabeth H. Barnes  
Administrative Law Judge