



STATE OF ALABAMA
ALABAMA PUBLIC SERVICE COMMISSION
P.O. BOX 304260
MONTGOMERY, ALABAMA 36130

TWINKLE ANDRESS CAVANAUGH, PRESIDENT

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TERRY DUNN, ASSOCIATE COMMISSIONER

SERVED: November 19, 2012

Walter L. Thomas

Exceptions, if any, must be filed with the Secretary, Alabama Public Service Commission, P. O. Box 304260, Montgomery, Alabama 36130, and served on all other parties of interest within 20 days from the date of service shown above, or within such further period as may be authorized for the filing of Exceptions. Replies to Exceptions may be filed within 20 days from the date of service of the Exceptions. At the expiration of the period for filing of Exceptions, the within Report and Recommended Order will become the Report and Order of the Commission unless Exceptions are filed seasonably or the time for filing Exceptions is extended by the Commission, or the Commission, within such period stays or postpones the Order. An original and four copies of any Exceptions and Replies should be filed.

CARBINE ENTERPRISES, INC.,
d/b/a QUAD CITIES TAXI & LIMOUSINE SERVICE,

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Applicant

REPORT AND RECOMMENDED ORDER

I. INTRODUCTION AND BACKGROUND

By application filed on or about January 12, 2012, Carbine Enterprises, Inc., d/b/a Quad Cities Taxi & Limousine Service ("Quad Cities"), 1212 Vine Street, Florence, Alabama 35630, seeks to extend an existing operation under Motor Carrier Certificate of Public Convenience and Necessity 3941 by removing the current restriction in said authority which precludes the transportation of non emergency medical patients. The Applicant currently holds certificate 3941 which authorizes operations as a common carrier in the intrastate transportation of:

Passengers and their baggage in special or charter taxi operations over irregular routes as follows:

- (1) Between all points and places in Colbert and Lauderdale Counties; and
- (2) From all points in (1) above to all points in Alabama, and return.

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The original authority is restricted against the transportation of non-emergency medical patients. The Applicant seeks to remove said restriction. Interventions were filed by Ala-Three, LLC, d/b/a Express Medical Transporters ("Express Medical") and Wheelchair Transportation and Taxicab Services, LLC ("Wheelchair Transportation"). This matter was heard on February 8, 2012.

II. SUMMARY OF THE RECORD

The first witness to testify was the Applicant, Mr. Jimmy Carbine. Mr. Carbine is the CEO and owner of Carbine Enterprises, Inc., d/b/a Quad Cities Taxi & Limousine Service. His company was incorporated in 2008. He started his business in late 1999 as a taxi business. He grew from there and acquired the Alabama Public Service Commission authority in 2004. In 2007 his company had a dispute with the insurance company and their insurance was dropped. They let it go for a couple of years - that was their first certificate. Then they came back to the APSC and reapplied in 2008 and that is when his application was protested by Express Medical. At that time he received a certificate and that is the certificate his company currently holds. Mr. Carbine testified that most of his service is regular taxi cab service but he has 1 limousine and he has 5 wheelchair vans that they use to provide service. Mr. Carbine testified that he has 6 vehicles that have unique features that are available for transporting wheelchairs and others. Mr. Carbine further testified that he has aluminum ramps that are 9 feet long and 38 inches wide. Their original vans were like the other vans and had 32 inch wide ramps. The problem is a heavy set person in a wheelchair that is 36 inches wide can't be loaded. Mr. Carbine testified that most wheelchairs are about 32 inches give or take a half inch or so, so if you are loading up a 32 inch wheelchair in a 32 inch ramp you are riding right on the edge. Mr. Carbine has designed their vans to go to 38 inches so that they have plenty of room and they can pick up the 36 inch wheelchairs. Mr. Carbine testified that a Geri chair is like a recliner. It's basically a recliner on wheels that the patient can lay back in with their feet extended out. The problem is that the patient sometimes cannot bend their legs or sit up so they have to be in a Geri chair. Mr. Carbine stated that the Geri chair will fit in the van that has the 38 inch ramp. Mr. Carbine also stated that 5 out of his 6 vans now have the 38 inch ramps instead of the narrower 32 inch ramp.

Maintenance on Mr. Carbine's equipment is done by on-staff maintenance people. He stated that he is familiar with the safety regulations of the Alabama Public Service Commission and the safety standards that have to be met by the Department of Transportation. Mr. Carbine stated that his equipment meets those standards and are inspected regularly. As for the training of his drivers, Mr. Carbine testified that when they hire a driver the new

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driver rides along with an experienced driver for at least two days and then the driver reports back what they think of the new driver. The two main drivers that Mr. Carbine has driving for him have CPR training. He also has a driver who has a background in working at the nursing homes, assisted living facilities and hospitals. In addition to the training, all of Mr. Carbine's drivers are drug tested. The vehicles are kept for Carbine Enterprises in Florence, Alabama where he has two separate buildings, one is an office and one is a garage. They are open 24 hours a day, 7 days a week, 365 days a year. Dispatch for Carbine Enterprises is handled from Florence. Advertising for the company is handled on the radio, the local newspaper and all kinds of sports advertising. They also do pretty extensive advertising in both hospitals in their area and they are on the televisions in the lunch rooms. As far as experience goes in handling non emergency medical transportation, Mr. Carbine testified that they have been doing it in the Quad Cities for a long time.

When asked if he would acquire additional equipment in order to provide the services he is asking for, Mr. Carbine testified that he would indeed add additional equipment and drivers and that he could handle the maintenance on the extra equipment. Mr. Carbine testified that he has received citations from the Alabama Public Service Commission. He further testified that the reason he came and asked to expand his authority is because as soon as he became aware that he was wrong in transporting people in the county he came and filed for the restriction to be lifted. Mr. Carbine received several citations since the application was filed, that's when he hired his attorney who told him to cease and desist all operations until they got it straightened out and so that is why they are before the Commission on this application.

On cross examination by Mr. Wiliford for Wheelchair Transportation, Mr. Carbine testified that he realized he was in the wrong transporting wheelchairs or non emergency patients when he received his citations. When he contacted an attorney he was told that he could not perform that kind of service and he stopped. He further testified that he received a cease and desist letter from Wheelchair Transportation's attorney. On cross-examination, Mr. Carbine stated that the letter from Wheelchair Transportation did not give him any idea that he was in the wrong because he wouldn't take what Mr. Wiliford said to heart, he needed the information from the Alabama Public Service Commission. Mr. Wiliford cross-examined Mr. Carbine and asked him about his liability insurance and Mr. Carbine testified that he has what the State of Alabama requires him to have. He also testified that he purchased 2 of his vans from Dallas, Texas; 2 of them from Atlanta, Georgia; and 1 from Florence, Alabama. At the time that he purchased them they were not equipped to carry wheelchairs but his company modified the vans to make them

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wheelchair accessible. His mechanic helped with the modifications and has twelve years of Ford certification and is ASC certified. Mr. Carbine testified that his ramps were ordered off the internet and shipped to his door. Mr. Wiliford further asked Mr. Carbine if his ramps met Americans with Disabilities Act specifications to which Mr. Carbine testified that he didn't think there were any ADA specifications because he has called around to the ADA and nobody would tell him or come out to inspect anything. Mr. Carbine testified on cross that the wheelchairs in his vans are secured with straps rated at 2,000 pounds, the straps are anchored to the frame of the van, they have eye bolts in the frame that come up through the floor and they are hooked with eyes. Mr. Wiliford further asked Mr. Carbine if he was available 24/7 for non-emergency transportation and wheelchair transports; Mr. Carbine stated that he was and that he had people working at night time who had training. Mr. Wiliford asked if Mr. Carbine had transported patients inside the city limits and Mr. Carbine stated that he had but that he could not recall the last time that he had done so but he had done so for insurance companies in the past. Mr. Carbine further stated that his drivers are trained to drive wheelchair vans and therefore they are going to be trained to load and unload the patients also. Mr. Wiliford asked if Mr. Carbine had filed his insurance reports and Mr. Carbine stated that he had. Mr. Carbine stated that he is transporting within the city limits where he is not required to have permission from the Commission and that in all the time that he has been in business operating non emergency transports he has only had one person injured in his van in 13 years.

Mr. Carbine was also cross examined by Dana Billingsley for Express Medical. Mr. Carbine stated that he has received three citations and that two were received only three weeks before the hearing. The citations were for transporting outside the district. He was transporting non emergency medical or in excess of the restrictions that are on his certificate. Before he actually received the citations there was an investigation done where an officer came down and looked at his books. That was 30 days before the citation. Ms. Billingsley asked that after he received his certificate in January of 2009, with the restrictions in it, when thereafter Mr. Carbine started transporting non emergency medical patients outside of the Quad City area. Mr. Carbine answered that he did that probably at the same time. Mr. Carbine testified that the type of transportation he is providing is not the same thing that Express Medical provides. He stated that he is transporting individuals from in the city, he takes them where ever they need to go, from their homes to where ever, whether it's a doctors office or dialysis clinic. He explained that the existing companies do not come to Lauderdale County and do transport for people in wheelchairs. The Protestants can't really come from Birmingham and then go to a nursing home, pick up the patients and take them to the doctor's

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office in Florence and get paid \$50 for it, wait 2 hours and take them back to Birmingham. They can't do it and so that is what Carbine Enterprise is doing. Mr. Carbine testified that he thought restrictions on his certificate meant that he was prohibited from doing what the other companies were doing like the workman's compensation and medical insurance company work. He stated that he only had one protest when he got his restricted authority and that was from Express Medical and so he thought that the restriction meant that he could not do what they were doing. Ms. Billingsley asked if he meant that he had never abided by the restriction and Mr. Carbine answered to an extent he had never abided by the restriction. Mr. Carbine further testified on cross that he began being investigated in December of last year for alleged violations of the restrictions on his certificate and he continued to transport non emergency medical patients from December until the time that he received the citations a couple of weeks before the hearing. Mr. Carbine testified that he has asked for authority to transport non emergency medical outside of Colbert and Lauderdale Counties to other points in Alabama. When asked what other points he was anticipating servicing he stated on cross examination that he is not anticipating serving any other points. He is not anticipating servicing anything outside of Lauderdale and Colbert County. Mr. Carbine further testified that there are only two nursing homes in Lauderdale and Colbert County that would utilize his services if he was granted a lift of the restrictions. One of them, he stated, he might not ever get anything out of and the other he may get anywhere from four to six transportation calls a month. Express Medical asked whether Mr. Carbine was at the present time serving the rural areas and he stated he was not. He was also asked if he was anticipating serving them in the future and he stated that he does not get any calls from the rural areas. Mr. Carbine testified that he does not have to be booked in advance. They can just call, like if the hospital calls and says they need somebody at 11:00 then they get there with the van.

On redirect, Mr. Carbine stated that he had not received any notice from any section of the Alabama Public Service Commission stating that his insurance has been cancelled. He further stated that if the authority is granted he will seek out and determine whether his equipment is ADA compliant or compliant with any other agencies in order for him to lawfully transport passengers in non-emergency medical treatment. On cross-examination Mr. Carbine stated that he also seeks to provide service for individuals; for instance going to a medical facility or a dental facility and that he does provide service on short notice.

The next witness for the Applicant was Brook Allard. Ms. Allard stated that she is employed by El Reposo Nursing Facility which is located in Florence, Alabama. Ms. Allard is a social worker and her company operates a long term care facility. Her company has occasion to request transportation services for the transportation of

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passengers and their baggage in non emergency medical service. Usually they are picked up from their nursing home and taken somewhere inside the city, to a doctors appointment or a dentist appointment or an eye doctor, it just varies. Most of the time the appointments are in Florence but they have had some go to Colbert County which is in the Muscle Shoals area. The transportation service provided includes a return of the patient to the nursing facility. Normally, Ms. Allard calls and sets up the transportation then the wheelchair van comes and picks up the patient, transports them to the appointment where there is normally a family member or someone there to assist with the medical records and things, then the wheelchair service is either called by the family or the doctor's office and they come back and transport the patient back to the nursing facility. In the past, those services have been provided by Quad Cities. Mrs. Allard testified that she has been with her agency for five years. Mrs. Allard also testified that she has used Wheelchair Services, Mr. Williford's company. She said that she has used them several times and recently it has become her only option because Quad Cities has stopped operating until after the hearing. She has had some difficulties and problems getting service. She had an incident two or three weeks before the hearing where a patient had a time change for their appointment, she called to have the patient picked up at a later time with Wheelchair Transportation and they were booked so the patient had to go to the appointment an hour and a half to two hours early and just sit. The problem is that the patient is in her 80's and it was very hard for her and her family to sit and wait the whole time. Mrs. Allard testified that it was approximately 6 or 7:00 a.m. the morning of the appointment when she called to change the time. When she was able to use Quad Cities she had no problems on short notice situations and changes. She has been satisfied with the equipment and the service and so forth provided by Quad Cities. When asked if she was familiar with Express Medical, Mrs. Allard testified that she was not and that they had never called on her and she has never seen any advertisement from them. Mrs. Allard testified that if she loses the services that she has had from Quad Cities it could potentially mean that family members are going to have to transport residents instead of using carriers. She believes that there is a need for an additional transportation service for passengers and baggage in non emergency medical service. She believes that the residents of the nursing home should have choices.

On cross examination by Wheelchair Transportation, Mrs. Allard testified that she called Medicaid when all the citations came about and she was told that Quad Cities was fine to transport and that their equipment was safe. Mrs. Allard further testified on cross examination by Express Medical that she would be willing to use Express Medical if they provided the contact information to her.

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The next witness in support of the application is Rosa Smith Jones who lives at 1315 Gate 6 Road, Muscle Shoals Alabama. She testified that her address is in the county and that she has a need for non emergency medical transportation services. She has to go to dialysis three days a week and she has used Quad Cities. Ms. Jones stated that she has been satisfied with Quad Cities services and that she needs wheel chair assistance as she is an amputee. Ms. Jones stated that she is going to dialysis three days a week, and there are times when her days change or her times change and Quad Cities has been able to meet those changes. She stated that it would have been a problem for her if a carrier could not have met the changes. On cross-examination by Express Medical, Ms. Jones stated that if Express Medical was able to transport her she would be willing to let them take her to dialysis.

The next witness for the Applicant was Tammy Goodrow. She lives at 555 County Road 517 in Anderson, Alabama. She stated that she has a handicapped daughter who has a need for non emergency medical transportation. Her daughter is presently at 1240 County Road 165 in Rogersville, Alabama. Her daughter has cerebral palsy and rheumatoid arthritis. Up until May of the prior year, Ms. Goodrow's daughter had physical therapy twice a week plus two doctors appointments. She needs transportation eight to ten times a month and she is wheelchair bound. The type of arthritis she has requires that she be in a seated position. In the past, Ms. Goodrow would call and make all of her appointments with Quad Cities. They knew the times and the days of her appointments and would set up a schedule for her to be picked up. They were always there and they knew how long she would be at physical therapy and when she came out of physical therapy they were always there waiting for her. There were times when her appointments would change on short notice and she never had any problems with Quad City making those changes and getting her daughter to her appointments and back. She stated that it is important for her to have a carrier in the area that can respond very quickly to any changes. Ms. Goodrow stated that she has in the past used Wheelchair Transportation when her daughter was living in Florence. The driver showed up at the apartment building asking for business and she agreed to give them a try. She used them one time. She stated that they were 10 minutes late for the doctor's appointment and she sat there 30 minutes after the doctor's appointment waiting for pickup; even though they were called with 15 to 20 minutes of notice when the appointment would end. That created a problem because her daughter cannot comfortably sit for that length of time. Ms. Goodrow stated that she will not use wheelchair transportation in the future. She stated that the driver did not help and make sure her daughter got in the van. Ms. Goodrow stated that if Mr. Carbine is granted this authority that she will use his service and she personally believes

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that there is a need for additional transportation service with passengers and baggage in non emergency medical service.

On direct examination, Express Medical asked had she ever been contacted by EMT. She stated that she had not and she had not even realized they existed until she got to the hearing. She stated that she needed carriers that were located there so that they can make changes on short notice and meet the changes in the appointments. She stated that she was supporting the application of Quad Cities because they have always given Ms. Goodrow good service and the drivers have always taken care of her daughter. Her daughter is unable to move her hands and Quad Cities makes sure she gets in and out of the van safely; they even take her to the door and make sure that she is in her apartment.

On cross-examination, Ms. Billingsley for Express Medical asked would Ms. Goodrow be willing to use Express Medical and Ms. Goodrow stated that she would check them out.

Mr. Carbine stated when he was recalled to the stand that he has received three citations from the Commission. The record reflects that he has been written five but he clarified that what he meant was that he has only physically received three of those and that when the others arrive he will deal with them.

On redirect by Mr. Wilson, Mr. Carbine testified that he has had an occasion where his driver has been hindered by another carrier. He stated that he was transporting a patient and that Mr. Wiliford of Wheelchair Transportation followed his van. The driver noticed him behind her, she turned around was going north and then she turned around and was going south and he turned around with her, and then she turned around and went back north again and he followed her and then she did it again. Then she went to the police department in St. Lorraine and called them for help. The police department intercepted Mr. Wiliford and pulled him over and the Quad Cities driver continued on. They have an incident report on it from Lauderdale County where they instructed them that if they got behind them again and did it again just to call 911. There were passengers in the van at the time that the driver was turning around and changing direction. Mr. Carbine stated that his driver was concerned with safety; she was shaking, she was nervous and she was really concerned about her safety. He stated that she altered her course just to make sure that someone was following her.

The next witness was Mr. Pete Wiliford, he is the owner/operator of Wheelchair Transportation and Taxi Cab Services, LLC. He stated that he started his business in 2010 and that the reason he has decided to go into business is because Mr. Carbine's service was not adequate when Mr. Wiliford's mother was sick with cancer. When

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he did get into transportation professionally, he sought out the proper insurance, as a medical transit and not as a taxi cab, which covers liability from what they call bed to bed or point to point, whereas taxi cab insurance does not insure wheelchair vans if they know about it so Mr. Wiliford got medical transit insurance. He stated that he also purchased more expensive commercially modified vans that were modified by an authorized dealer. He also wanted to act legally so he sought Commission approval so he could go outside the city limits to service the people who were calling. When he began service he had a goal that in six months he would add a vehicle, but he ended up adding it in four months. Then he hired an extra part-time person. He is now up to three vans. Most of his business is in the city limits, outside of the authority of the Alabama Public Service Commission. Mr. Wiliford stated that he was aware of the incident that Mr. Carbine spoke of where Mr. Wiliford was following the van. He stated that there was a lady in a wheelchair in the back of the van and also a passenger riding and that the driver for Quad Cities drove back and forth and took side roads and went into the county and that the passengers in the van were driven around for about 30 minutes on unnecessary routes to get back to the nursing home.

On cross examination by Carbine Enterprises, Mr. Wiliford answered that he did follow the Quad Cities van for half an hour. Mr. Wiliford stated on cross that very little of his business is out in the county and that his best guess would be that 10% of his business is regulated by the Public Service Commission. Only 10% of his business could be affected by the removal of this restriction. Mr. Wiliford testified that the width of the ramps on his three vans is 33 inches. He also testified that he does transport patients in Geri chairs and that all Geri chairs are not a problem to load. There are different brands, some are easy and some take a little bit of finagling to get them into the van. He said it is not because of the width, it's the length when the patient has their feet stuck out and the chair is reared back.

On cross-examination, Mr. Wiliford testified that he was operating a few months before he got his authority. His hearing was in January of 2011, so that means his operations would have been in service 8-10 months before he got his authority and he was operating out in the county before he received a certificate. Mr. Wiliford did not receive any citations from the Public Service Commission at that time. Mr. Wiliford's business does not operate 24 hours a day. They take their vans home with them and they operate on an on-call basis but they do not get very many calls during the night. He does operate 365 days a year. His vans for the most part, operate under regular hours. They stay on the go pretty much most of the day, running from about 6am, Monday thru Friday.

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Express Medical called Richard Peterson to testify on their behalf. Mr. Peterson testified that he works at 1715-A Pleasant Grove Road, Dolomite, Alabama. He is employed by Express Medical where he has worked for 7 ½ months as the general manager. He testified that EMT has state wide authority and they have offices located in Mobile, Montgomery, Birmingham and Ozark. He does not have a Lauderdale and Colbert County area office but they do have a presence in those counties. At the present time they make anywhere from 2-8 trips per day in those areas. They have talked about adding an additional office in that area but the business has not grown to where they need to put an office there yet. EMT has 24 vehicles in Birmingham, 11 in Montgomery, 5 in Mobile and 8 in the Ozark/Dothan area. For the most part, to serve the Lauderdale and Colbert County areas, the vehicles would come out of Birmingham but they could come from anywhere. He stated that EMT could respond to a request for transportation within an hour. When asked if his trips in Lauderdale and Colbert County were primarily concentrated within the Quad Cities area, he stated that they have those types of transportation and they also have transportation they are called on in the rural area. Mr. Peterson testified that his services are available 24 hours a day, 7 days a week to a degree, but all of their services are pre-booked. They answer the phones 24/7 and it is customary within this industry that transportation is pre-booked. They are an approved vendor of Medicaid. Mr. Peterson also testified that they can move vehicles and drivers wherever the need arises within the state, so if they were aware of a greater need in Lauderdale and Colbert Counties they would send more vehicles and more drivers to that area. EMT is in good standing with the Commission. Mr. Peterson stated that competition would actually hurt the bottom line for EMT. Even though they are growing, they are still trying to just break even. Their transportation services are highly competitive. They come to the Commission for many proceedings to protest to protect their authority. Mr. Peterson testified that Express Medical is able to absorb the 4-6 trips a month that are involved in this application. Mr. Peterson testified that EMT is expanding their advertisement of services within the Muscle Shoals or Quad City area with a website, a 1-800 number and they have a 1-800 number in the Yellow Pages.

On further direct, Mr. Peterson stated that all of their ramps are the widest handicapped ramps made, they go to 38 inches, the inside is basically 36 inches for a wheelchair with a lift that's on the outside. Their ramps can handle all extended wheelchairs.

On cross examination by Mr. Wilson, Mr. Peterson stated that the drive time from Birmingham to Florence or the Quad City area is about 2 ½ hours. Mr. Peterson stated that they are not a taxi cab service and that all of their transportation is pre-booked. Mr. Wilson asked if they were picking up somebody pre-booked on Mondays,

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Wednesdays and Fridays and somebody called on short notice and they had equipment available in the area would they take the call. Mr. Peterson stated that they would do everything in their power to make it happen if they had somebody in the area. Most of the times they can have someone there within the hour. Mr. Peterson testified that a good percentage of their business is under contract with either agencies or companies that have a contract with Medicaid or Medicare. He was asked whether those transportation services take priorities because of their contractual obligations and Mr. Peterson stated that all of their members are treated equally.

III. DISCUSSION AND CONCLUSIONS

An applicant seeking a certificate to operate as a common carrier must establish through evidence presented at the hearing that it is fit, willing and able to properly perform the service proposed in conformity with the provisions of the Alabama Motor Carrier Act and the Commission's Motor Carrier Rules, and that the proposed service is required by the public convenience and necessity. The adequacy of existing service in meeting the public need, the Applicant's financial ability to furnish adequate, continuous, and uninterrupted service and the advantages to the public of the proposed service are, among other things, factors which must be considered. Proof of public convenience and necessity requires an affirmative showing that the proposed service will be superior to the service of presently authorized carriers, or the proposed operations will serve a useful purpose which cannot or will not be met by existing carriers.

The first issue to be addressed is whether the Applicant is fit, willing and able to provide the proposed common carrier service. The record indicates that this Applicant is fit, willing and able from an operational and financial standpoint to provide the proposed service. There was testimony that raised questions as to the applicant engaging in past activities that were unauthorized for-hire operations. It appears from the record that the Applicant was confused about the authority he already held and that after receiving citations and speaking to an attorney he has ceased operations until he could come to the Commission and receive the authority for the transportation he was providing. The Applicant stated in the record that he would operate within the parameters of the law, that he would seek out all requirements and regulations which apply to him and he would seek out all directions on proper equipment for handicap passengers. While the Applicant did not demonstrate a thorough working knowledge of the Motor Carrier Act and the rules and regulations of the Commission, it did demonstrate a willingness to familiarize itself with those rules and regulations and comply with them in the future.

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The next issue to be addressed is whether the public convenience and necessity requires the services as proposed by the Applicant. It is incumbent upon the Commission, when considering the question of public need, to consider whether the territory for which authority is sought is served by other carriers and the adequacy of such service to meet the public need. *Alabama Public Service Commission v. Higginbotham*, 256 Ala. 621, 56 So.2d 401 (1951), *Alabama Public Service Commission v. Crowe*, 247 Ala. 120, 22 So.2d 721 (1945). The maintenance of sound economic conditions in the transportation industry would be jeopardized by allowing a new operator to compete with existing carriers who are providing reasonably adequate service. Motor Carriers serving an area should be afforded an opportunity to transport all the traffic they can adequately, efficiently and economically handle without additional competition from a new operation.

Proof of public convenience and necessity requires an affirmative showing that the proposed operations are superior to those of presently authorized carriers, or that the proposed operations would serve a useful purpose which cannot or will not be met by existing carriers. There must be an affirmative demonstration not only that a common carrier service is required in the convenience of the public proposed to be served, but also that it is a necessity on the part of such public. The burden of proof is upon the Applicant to establish that the public convenience and necessity requires the Applicant's service and that the service of existing carriers is inadequate. A certificate should not be granted where there is existing, adequate service over the routes applied for and if inadequate unless the existing carriers have been given an opportunity to furnish such additional services may be required *Purolator Courier Corporation v. Alabama Public Service Commission*, 514 So.2d 832, 834-835 (Ala. 1987), *Service Express, Inc. v. Baggett Transportation Company*, 281 Ala. 666, 669-70, 207 So.2d 418, 421-22 (1968), and *Alabama Public Service Commission v. Perkins*, 275 Ala. 1 at 4, 151 So.2d 627, 629-30 (1962).

This Application was supported by 3 shipper witnesses in addition to a representative of the Applicant itself. The Application was protested by two carriers, each of which sponsored a witness in this proceeding. The Protestant, Express Medical, testified that they have a presence in the area, have the equipment necessary to provide the proposed service, need the additional transportation and that they are more aggressively marketing and seeking client in the area. None of the Applicant's witnesses had tried Express Medical, but all three witnesses said they would try them if they had the contact information. It appears that there are existing carriers which presently hold the authority sought and that have the equipment and experience necessary to provide the service. One of the Protestants,

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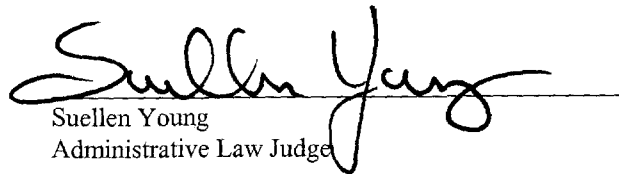
Express Medical has not been afforded an opportunity to provide the service and should be allowed to do so before there is additional competition from a new operation.

The applicant has failed to show that all of the existing service available is inadequate and the witnesses stated a willingness to try the Express Medical.

RECOMMENDATION

Based on the foregoing, it appears that the Applicant has failed to affirmatively demonstrate that the service proposed herein is required by the public convenience and necessity or is reasonably necessary therefore. Further, the Applicant did not affirmatively demonstrate that the service available from existing carriers is anything less than reasonably adequate or that its service is in any way superior to that of existing carriers. It is accordingly recommended that the application of, Carbine Enterprises, Inc., d/b/a Quad Cities Taxi & Limousine Service be denied.

Respectfully submitted,


Suellen Young
Administrative Law Judge