

BEFORE THE NEW MEXICO PUBLIC REGULATION COMMISSION

IN THE MATTER OF THE APPLICATION)
OF Q CAB, LLC D/B/A Q CAB FOR A)
CERTIFICATE TO PROVIDE GENERAL) Case No. 17-00212-TR-M
SHUTTLE SERVICE)
_____)

NOTICE OF APPLICATION FOR A CERTIFICATE

The Transportation Division (“Staff”) of the New Mexico Public Regulation Commission (“Commission”) through this Notice of Application for a Certificate (“Notice”) hereby gives notice that Q Cab, LLC, d/b/a Q Cab (“Applicant”) has applied to the Commission for a certificate to provide *general shuttle service* as follows:

Q Cab’s terminal points for its General Shuttle Service shall be the Albuquerque Sunport and the Albuquerque Convention Center/Civic Plaza. One of these terminal points shall be the point of origin or the point of termination for all general shuttle trips. The other terminal point shall be within a terminal area “Zone” which is indicated in Zone MAP 1 or MAP 2 which are part of Q Cab’s filed tariff; **PROVIDED THAT** no service shall be provided under this certificate which either originates or terminates within the municipal limits of the City of Santa Fe; with equipment to be stationed at 10950 Central Ave. SE, Albuquerque, NM 87123.

Any member of the general public desiring to view the application may do so at the Commission’s web site: www.nmprc@state.nm.us.

Under changes to the Motor Carrier Act, NMSA 1978, § 65-2A-1, et seq., that took effect July 1, 2013, the Commission cannot act on an application for a certificate less than twenty days after the date notice was electronically published (“Notice Period”). NMSA 1978, § 65-2A-6 A. Electronic publication is accomplished by posting the Notice on the Commission’s web site and electronically sending the Notice to all motor carriers, public officials or agencies, or other persons or entities who have previously supplied electronic mail addresses to the Commission advising such persons or entities of the filing and posting. NMSA 1978, § 65-2A-6 A.

An additional change to the Motor Carrier Act that also took effect July 1, 2013, states that a person may file an objection to an application for a certificate during the Notice Period for the application. NMSA 1978, § 65-2A-13 A. The Commission may, but does not have to, hold a public hearing specific to an objection that is filed within the Notice Period. NMSA 1978, § 65-2A-5 B, and -13 A. The Commission may also on its own initiative decide to hold a public hearing. NMSA 1978, § 65-2A-5 B, and -13A. Further, if Staff requests a hearing, the Commission must hold a public hearing on the application. NMSA 1978, § 65-2A-5C, and -13 B.

An additional change to the Motor Carrier Act that also took effect July 1, 2013, states:

Except as provided in this section and in [NMSA 1978, § 65-2A-13], the Commission shall issue a certificate allowing a person to provide passenger service after notice and public hearing requirements are met, if:

- (1) The applicant is fit and able to provide the transportation service to be authorized by the certificate;
- (2) The applicant is in compliance with the safety and financial responsibility requirements of the Motor Carrier Act, the rules of the Commission and other applicable federal state laws and rules; and

* * *

- (4) The applicant has filed a tariff as provided in [NMSA 1978, § 65-2A-20].

NMSA 1978, § 65-2A-8 B.

An additional change to the Motor Carrier Act that also took effect July 1, 2013, defines the terms “*shuttle service*”, “*scheduled shuttle service*”, and “*general shuttle service*”:

“*shuttle service*” means the intrastate transportation of passengers for hire pursuant to a set fare for each passenger between two or more specified terminal points or areas and includes both scheduled shuttle service and general shuttle service as follows:

- (1) “*scheduled shuttle service*” means a shuttle service that transports passengers to and from an airport both through prior arrangement and through presentment at terminal locations, on the basis of a daily time schedule filed with the commission, which must be met in a timely fashion with a vehicle present at the

terminal location regardless of the number of passengers carried on any run, if any, and includes general shuttle service; and

(2) “*general shuttle service*” means a shuttle service that is not required to operate on a set schedule, that may optionally use a grid map to specify distant or adjacent terminal areas and that is not required to accept passengers other than pre-arranged passengers; . .

NMSA 1978, § 65-2A-3 BBB.

Further, under the Motor Carrier Act, “*ability to provide certificated service*”:

Means that an applicant or carrier can provide reasonable *continuous and adequate* transportation service of the type required by its application or its operating authority in the territory authorized or sought to be authorized.

NMSA 1978, § 65-2A-3 A [Emphasis added].

The Motor Carrier Act defines “*continuous and adequate*” service:

(1) for full-service carriers¹, reasonably continuous availability, offering and provision of transportation services through motor vehicles, equipment and resources satisfying safety and financial responsibility requirements under the Motor Carrier Act and commission rule, which are reasonably adequate to serve the entire full-service territory authorized in the certificate, with reasonable response to all requests for service for the nature of passenger service authorized, based on the nature of public need, expense and volume of demand for the type of service authorized during seasonal periods; and

(2) for general-service carriers², reasonably continuous availability and offering of transportation services through motor vehicles, equipment and resources satisfying safety and financial responsibility requirements under the Motor Carrier Act and commission rule for the nature of the transportation service authorized in the certificate;

NMSA 1978, § 65-2A-3 M.

Certificates for passenger service are required to contain *territorial endorsements*³ that are:

¹ “Full service” includes “a scheduled shuttle service” under NMSA 1978, § 65-2A-3 T. In addition to the service requirements of NMSA 1978, § 65-2A-3 A, under NMSA 1978, § 65-2A-3 T, full service carriers are also required to meet specific standards for the provision of service to or throughout a community.

² “General service” includes “a general shuttle service” under NMSA 1978, § 65-2A-3 U. Under this section, general service carriers are not required to provide unprofitable or marginally profitable carriage.

³ “[E]ndorsement means the specification in a certificate of the territory in which the carrier is authorized to operate, the nature of service to be provided by a certificated passenger service and any additional terms of service that may

... limited to territory sought in the application that will be served in a reasonably *continuous and adequate* manner beginning within thirty days of the issuance of the certificate or such other definite period or date as the commission may provide for a particular application and shall generally be authorized on the basis of county or incorporated municipal boundaries, subject to other specification reasonably allowed or required by the commission;

NMSA 1978, § 65-2A-8 F(1); and

... for shuttle service, provide for transportation between two or more specified end or intermediate terminal points or areas, and authorize pick-up or drop-off of passengers throughout a terminal area, but shall not authorize transportation between points and places within a single terminal area or the provision of transportation service in any other areas of the state.

NMSA 1978, § 65-2A-8 F(3).

For purposes of this application, the language of NMSA 1978, § 65-2A-8 stating; “except as provided in this section [NMSA 1978, § 65-2A-8], and in [NMSA 1978, § 65-2A-13]” for NMSA 1978, § 65-2A-13, requires the Commission to hold a hearing if a *protest* is filed within the Notice Period or Staff files a request for hearing within the Notice Period. NMSA 1978, § 65-2A-13 B. A protesting carrier is allowed to proceed as an intervenor in the application proceeding. NMSA 1978, § 65-2A-13 B.

In any hearing held on an application, the protesting carrier has the burden of proving all matters of fact pertaining to its full-service operation within its certificated full-service territory, the burden of proving the potential impairment or adverse impact on its existing full-service operation by the transportation service proposed by the applicant and the burden of proving all other allegations and matters of public interest that it may raise. NMSA 1978, § 65-2A-13 C(2).

The protesting carrier’s proof should include, without limitation, a demonstration with reasonable specificity of the nature of the existing full service being provided, the volume of passengers transported, economic analysis related to expenses and revenues of the full-service

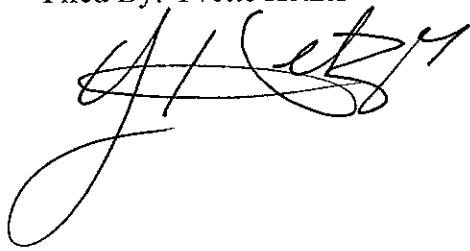
be reasonably granted or required by the commission for the particular authority granted.” NMSA 1978, § 65-2A-3 O.

operation and the anticipated economic, business or functional effect of the proposed service on the existing provision of, or rates for, full-service transportation within the full-service territory. NMSA 1978, § 65-2A-13 C(2).

Even if no hearing is held, before granting the application, the Commission must consider any objections that were filed within the Notice Period. NMSA 1978, § 65-2A-10 B. If a person filing an objection to the application is ultimately allowed by the Commission to intervene in the case (“Permissive Intervenor”), that person must pay a fee of two hundred fifty dollars (\$250). NMSA 1978, § 65-2A-36 A(2). At the public hearing, the Permissive Intervenor will have the burden of proof for all factual matters and legal issues that it alleges and on which it is permitted to intervene. NMSA 1978, § 65-2A-13 C(3).

The Commission’s Motor Transportation Rules are also available at the Commission’s web site: www.nmprc.state.nm.us.

Filed By: Yvette Hetzer

A handwritten signature in black ink, appearing to read 'Yvette Hetzer', written over a horizontal line.