

BEFORE THE NEW MEXICO PUBLIC REGULATION COMMISSION

**IN THE MATTER OF THE APPLICATION)
OF OCCUPATIONAL HEALTH AND SAFETY)
INTERNATIONAL, LLC DBA OHSI, LLC)
FOR A PERMIT TO PROVIDE AMBULANCE)
SERVICE)**

Case No. 18-00238-TR-M

FILED IN OFFICE OF

AUG - 9 2018

NM PUBLIC REGULATION COMM

**NOTICE OF APPLICATION
FOR A PERMIT**

The Transportation Division (“Staff”) of the New Mexico Public Regulation Commission (“Commission”) through this Notice of Application for a Permit¹ (“Notice”) hereby gives notice that Occupational Health and Safety International, LLC dba OHSI, LLC (“Applicant”) has applied to the Commission for a permit to provide ambulance service.

Applicant in this docket seeks a permit to provide the following transportation service:

A permit to provide ambulance service (as defined by NMPRC Motor Transportation Rules and the Motor Carrier Act) from points and places in Lea and Eddy Counties to points and places in Lea and Eddy Counties, New Mexico, and return, under contract with Medcon Medical Services, LLC, Anadarko Petroleum Corporation and its affiliate companies, and Chevron U.S.A. Inc.

Any member of the general public desiring to view the application may do so at the Commission on weekdays (not including state holidays) during the hours of 8:00 a.m. and 5:00 p.m. at: 1120 Paseo de Peralta, Santa Fe, NM 87501.

Under NMSA 1978, § 65-2A-1 of the Motor Carrier Act, the Commission cannot act on an application for a permit less than twenty days after the date the 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

¹ To approve an application for a permit for passenger service, the Commission is required to find that the applicant meets all of the requirements of NMSA 1978, § 65-2A-10, as if the applicant were applying for a new permit. NMSA 1978, § 65-2A-14 B(3).

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.

The section of the Motor Carrier Act pertaining to permit applications states that:

. . . [T]he [C]ommission shall issue a permit allowing a person to provide permitted service for the transportation of passengers... after notice and public hearing requirements are met, if the applicant is:

- (1) fit to provide the transportation to be authorized by the permit; and
- (2) in compliance with safety and financial responsibility requirements of the Motor Carrier Act, the rules of the commission and other applicable federal and state laws and rules.

NMSA 1978, § 65-2A-10 A.

The same section of the Motor Carrier Act pertaining to permit applications also states that:

The [C]ommission shall not grant a permit for ambulance . . . service . . . unless the applicant holds a certificate for provision of the appropriate certificated service in the territory to be served under contract, [and a] carrier's operations pursuant to permits for contracts for ambulance service . . . shall be held to the same standards as are the carrier's certificated service operations.

NMSA 1978, § 65-2A-10 C.

The same section of the Motor Carrier Act pertaining to permit applications also states that:

The [C]ommission shall not issue a permit for passenger service if the contract or arrangement between the carrier and the other contracting party effectively excludes or otherwise impairs a certificated carrier's access to public places or the public's access to certificated carriers for the provision of transportation services by a certificated passenger service carrier then serving the same territory, and no permit issued may be used to effect such exclusion or impairment of certificated passenger service.

NMSA 1978, § 65-2A-10 D.

The Motor Carrier Act also states that a person may file an objection to an application for a permit during the Notice Period for the application. NMSA 1978, § 65-2A-13 A. The Commission is required to consider any objections filed during the Notice Period in regard to determining whether to hold a hearing. NMSA 1978, § 65-2A-13 A. The Commission is not required to hold a hearing pursuant to any objection but may in its discretion or on its own motion for any reason, hold a hearing on any application for an amendment of a permit. NMSA 1978, § 65-2A-5 B and -13 A.

The Commission is required to hold a hearing on an application for a permit to provide ambulance service whenever a protest is filed within the Notice Period or the Transportation Division files a request for hearing within the Notice Period. NMSA 1978, § 65-2A-5 C and -13 B. The Motor Carrier Act defines a “protest” to mean, among other things, a pleading filed with the Commission by a full-service carrier that expresses an objection to an application for a permit for ambulance service when the territory involved in the application includes all or a portion of the full-service territory of the protesting carrier. NMSA 1978, § 65-2A-3 UU.

The Motor Carrier Act defines “full service” to mean, among other things, a certificated ambulance service required to meet specific standards for the provision of service to or throughout a community. NMSA 1978, § 65-2A-3 T. It should be noted that since the definitions in the Motor Carrier Act of “protest” and “full service” became effective on July 1, 2013, the Commission has yet to adopt by rule or otherwise any specific standards applicable to the provision of certificated ambulance service.

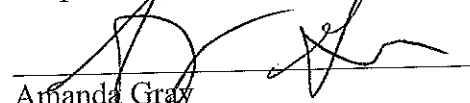
A protesting carrier is allowed to proceed as an intervenor in the application proceeding. NMSA 1978, § 65-2A-13 B. In any hearing held on an application, the protesting carrier has the burden of proving all matters of fact pertaining to its full-service operation within its certificated full-service 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 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).

The Commission may allow other interested persons to intervene, either generally or on the basis of specific facts or issues ("Permissive Intervenor"). A Permissive Intervenor has the burden of proof for its position on all factual matters and legal issues that it alleges and on which it is permitted to intervene. NMSA 1978, § 65-2A-13 C(3).

Any application for permissive intervention or protest is required to be accompanied by a fee of two hundred fifty dollars (\$250). NMSA 1978, § 65-2A-36 A(1).

The Commission's Motor Transportation Rules are also available at the Commission's web site

Respectfully Submitted by:


Amanda Gray
Transportation Division Economist
NM Public Regulation Commission