



STATE OF CONNECTICUT
DEPARTMENT OF TRANSPORTATION



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DOCKET NO. 1310-N-364-L

RE: APPLICATION OF ECUA-USA LIMO SERVICE, LLC TO OPERATE FOUR (4) MOTOR VEHICLES, HAVING A SEATING CAPACITY TEN (10) ADULTS OR LESS, IN GENERAL LIVERY SERVICE BETWEEN ALL POINTS IN CONNECTICUT FROM A HEADQUARTERS IN BRIDGEPORT, CONNECTICUT.

FINAL DECISION

July 17, 2014

I. INTRODUCTION

A. Application

By application filed on October 23, 2013 with the Department of Transportation (hereinafter "department"), pursuant to Connecticut General Statutes §13b-103, as amended, Ecu-a-USA Limo Service, LLC (hereinafter "applicant") located at 1926 North Avenue, Apt 1928, Bridgeport, Connecticut, seeks authorization to operate four (4) motor vehicles, having a seating capacity of ten (10) adults or less, in general livery service between all points in Connecticut from a headquarters in Bridgeport.

B. Hearing

Pursuant to Connecticut General Statutes §13b-103(a), a public hearing on this application was held on May 6 and June 11, 2014.

Notice of the application and of the hearing to be held thereon was given to the applicant and to such other parties as required pursuant to General Statutes Section 13b-103(a)(1). Legal notice to the public was given by publication on the department's website at www.ct.gov/dot.

The Commissioner of Transportation designated a hearing officer to conduct the hearing on this matter, pursuant to Connecticut General Statutes §13b-17.

C. Appearances

Ecu-a-USA Limo Service, LLC appeared through its members, Luis Jerez and Ricardo Calle, and was represented by Mark Bergamo, Esq. of the Marcus Law Firm, whose mailing address is 275 North Branford Road, North Branford, Connecticut 06471.

Curtin Motor Livery Service, Inc. and Lasse's Livery Service, Inc. both of 335 Ferry Boulevard, Stratford, Connecticut filed for party, and in the alternative, intervenor status. Curtin Motor Livery Service, Inc. and Lasse's Livery Service, Inc. were both represented by Mary Alice Moore Leonhardt, Esq. of the law firm of Rome McGuigan PC, whose address is 1 State Street, 13th Floor, Hartford, Connecticut 06103. Curtin Motor Livery Service, Inc. and Lasse's Livery Service, Inc. were both granted intervenor status.

II. FINDINGS OF FACT

1. The applicant operates four (4) motor vehicles in interstate livery service and will use it's existing vehicles in intrastate livery service.
2. Members of Ecu-a-USA Limo Service, LLC are from Ecuador and speak Spanish.

3. Victor Santos is a deli manager in Bridgeport and although he uses the applicant for interstate livery service, he has no need for intrastate livery service. He hopes to drive for the applicant.
4. Raul Berazo Belardi lives in New Haven. He represents Ecuador in its diplomatic relations. He is in this country to further the position of Ecuadorian people and supports the applicant countrymen as part of the Ecuadorian Consulate. He uses limousine services once a month for diplomatic services. He has used different livery providers throughout the state.
5. Belardi does not know any livery companies with a headquarters in New Haven who provide service because none of the companies have offered their services to the Consulate. Alfredo's Limousine is providing the service Belardi needs.
6. Silvia Melendez lives in Bridgeport and she uses interstate livery services for family gatherings that are out of state. She has not used livery services in state and has no need for it.
7. Victor Sarmiento lives in Bridgeport. He and his brother own a restaurant in Norwalk and Bridgeport. Sarmiento takes limousines when he travels to New York. He does not use livery service within the state. When Sarmiento's clients ask for transportation, they ask for taxicab service.
8. Reyes Tapia Revera lives in Shelton. He would use livery service for interstate travel, but he has no use for in state livery service.
9. Karen Breeney is from Bridgeport and works as a social security services worker who goes to Florida every 8 weeks. She uses the applicant for interstate livery service to Westchester airports. Breeney does not have a need for in state livery service.
10. Milagros Nash is from Bridgeport and is a certified nurse's aide. She uses the applicant to see her brother in New York. Nash has no need for intrastate livery service.
11. Anjelica Rodriguez lives and works in Bridgeport and has more use for taxicab services than limousine services.
12. Several witnesses support the applicant because of their similar ethnicity and Spanish speaking ability. They are not aware of existing livery services available to them, nor if the other services have Spanish speaking drivers, but they will try other services they did not previously know about.
13. The applicant's members do not have criminal conviction histories.
14. The applicant has cash on hand in the amount of \$22,000 as of March 2014.
15. The applicant estimates repairs and maintenance at approximately \$3,467 per

vehicle, property taxes of approximately \$1,282. As of September 2014, the applicant showed total assets of \$60,023 and no significant liabilities.

16. The applicant will not incur substantial additional expense since it is already in operation as an interstate provider.

III. DISCUSSION

The department has jurisdiction over each person, association, limited liability company or corporation owning or operating a motor vehicle in livery service, pursuant to General Statutes Section 13b-102, as amended.

In determining whether a livery permit should be granted, the department shall take into consideration the present or future public convenience and necessity. The applicant must prove that the public's convenience and necessity will be improved by the proposed service. Additionally, the applicant must show the suitability of the applicant or the suitability of the management if the applicant is a limited liability company or corporation, the financial responsibility of the applicant, the ability of the applicant efficiently and properly to perform the service for which authority is requested and the fitness, willingness and ability of the applicant to conform to the provisions of the statutes and the requirements and regulations of the department thereunder, in accordance with General Statutes Section 13b-103.

In support of financial wherewithal, the applicant provided financial documentation showing that it has vehicles in operation in interstate livery service. The applicant provided proof of cash on hand in the amount of approximately \$22,000 and total assets in the amount of \$60,023, and no liabilities. The applicant will not incur significant additional expense in putting the vehicles in intrastate livery service since it is already in operation as an interstate livery provider with an established office and expenses that it currently pays.

In support of suitability, the applicant provided the criminal conviction history for its members. No criminal convictions were noted. The only concern regarding suitability was some testimony alluding to the fact that the applicant may have provided intrastate service. Although the witnesses indicated that they misspoke, the applicant's owners are put on notice that Ecu-USA Limo Service, LLC is not authorized to provide intrastate livery service and therefore should not provide said service, unless and until so authorized.

Lastly, in support of public convenience and necessity, the applicant fails to meet its burden of proof. Most of the witnesses who testified indicated that they used the applicant for interstate livery service to New York airports and to functions and family events in New York. When asked about their need for intrastate livery service, most witnesses indicated they had no need for local livery service. When prodded regarding local livery service, their testimony turned to the possibility of needing local livery service to and from work, but that testimony was not believable. The witnesses, generally testified that they supported the applicant because the applicant was Hispanic and spoke Spanish. Moreover, the witness who spoke Spanish indicated they were more comfortable with the Spanish speaking drivers and they supported the applicant because they are Hispanic. However, Connecticut General Statutes § 13b-97 does not contain language "that would suggest that whenever a proposed service would be of benefit to a

particular segment of the community, then the DOT is obligated to issue a certificate." See USA Taxi of Norwalk, Inc. v. State of Connecticut Department of Transportation et al, Judicial District of New Britain at New Britain (Superior Court, March 13, 2014).

The witnesses who appeared to testify on behalf of the applicant were supportive of the applicant because the members of the applicant speak Spanish. The support, however, falls short of proving public convenience and necessity for the proposed service. Several witnesses stated that they needed intrastate livery transportation, but the type of transportation referenced is more suited to taxicab transportation. A witness testified that she would use the livery service, at a cost of at least \$20, to and from her school which is located less than 10 minutes from her house. That testimony is not credible.

A few witnesses testified similarly. Another witness testified that the livery trip would not cost more than a taxicab trip, which she takes on the weekends. However, livery rates are required to be more than taxicab rates¹, making her argument unbelievable. None of the witnesses testified that they had a need for intrastate livery service; on the contrary, most testified that they did not, and likely would not, have need for in-state livery service.

IV. CONCLUSION OF LAW

This hearing officer concludes that the applicant is suitable to operate the proposed service, the applicant possesses the financial wherewithal to operate the proposed service but the applicant did not prove by substantial evidence that the public's convenience and necessity would be improved by the grant of authority for intrastate livery service.

V. ORDER

Based upon the foregoing and pursuant to §13b-103 of the Connecticut General Statutes, as amended, the application of Ecu-a-USA Limo Service, LLC is hereby denied.

NOTE: There was some testimony that was elicited of intrastate trips performed by the applicant. The applicant is put on notice that it is not authorized to provide intrastate livery service or to provide service as a "taxicab" because it does not hold such authority. The applicant is only authorized to operate in interstate livery service and thus, should not provide any other type of transportation service.

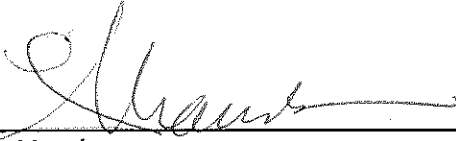
Failure of Ecu-a-USA Limo Service, LLC to adhere to the terms of its permit for the registration of interstate livery authority could subject the applicant to citation for the suspension, revocation or a civil penalty and notice to the Federal Motor Carrier Safety Association of said revocation, suspension or civil penalty.

¹ Regulations of Connecticut State Agencies §16-325-7 provides in pertinent part: Each permit holder shall maintain on file with the commission an exact schedule of all rates and charges for livery service. . . [I]n localities regularly served by taxicabs, permit holders shall charge a minimum rate of one dollar per trip, and shall not charge a rate less than the prevailing taxicab fare for comparable service. . .

This final decision constitutes notice in accordance with Connecticut General Statutes §4-182.

Dated at Newington, Connecticut, on this 17th day of July 2014.

CONNECTICUT DEPARTMENT OF TRANSPORTATION



Laila A. Mandour
Staff Attorney III
Administrative Law Unit
Bureau of Finance and Administration