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BEFORE

THE PUBLIC SERVICE COMMISSION

OF SOUTH CAROLINA

DOCKET NO. 2019-242-T

Application of Professional Movers of Charleston, LLC for a Class E (Household Goods) Certificate of Public Convenience and Necessity for Operation of Motor Vehicle Carrier	))))))	MOTION FOR PERMISSION TO PRESENT SHIPPER WITNESS TESTIMONY BY AFFIDAVIT

Professional Movers of Charleston, LLC ("PMC" or "Applicant") moves for permission to present the testimony of its shipper witness by affidavit. The Commission's regulation concerning the proof required to support an application for a Certificate of Public and Convenience and Necessity for a Class E mover of household goods with statewide authority is found in S.C. Code Regs. 103-333.

Regarding the testimony of shipper witnesses, which are used to demonstrate that an applicant's services will serve public convenience and necessity, the regulation states: PC&N (Household Goods or Hazardous Waste for Disposal). An application for a Certificate of PC&N or to amend a Certificate of PC&N to operate as a carrier of household goods or hazardous waste for disposal by motor vehicle may be approved upon a showing that the applicant is fit, willing, and able to appropriately perform the proposed service and that public convenience and necessity are not already being served in the territory by existing authorized service The public convenience and necessity criterion must be shown by the use of shipper witnesses if the applicant applies for authority for more than three continuous counties. If the commission determines that the public convenience and necessity is already being served, the commission may deny the application. The following criteria should be used by the commission in determining that an applicant for motor carrier operating authority is fit, willing, and able to provide the requested service to the public: S.C. Code Reg, 103-133.1 In the interest of judicial economy, the Commission should allow the regulation's requirement of "use of a shipper witness" to be satisfied by the submission of an affidavit. The Commission's practice has been to allow applicants to take the testimony of shipper witnesses by deposition to be used at trial. *See e.g. Application of Midland Movers DOCKET NO. 2018-268-T*

There would be no substantive difference if an applicant were to submit the testimony by affidavit. The Office of Regulatory Staff, or an intervenor, would have the right to contest the adequacy of an affidavit if they believed it inadequate. Challenges to adequacy of shipper witness testimony have been virtually nonexistent due to the Supreme Court's holding that mere anecdotal evidence is insufficient to challenge the "necessity" prong of an application. *Welch Moving ck Storage Co v. Pub Serv. Com, 301 S.C. 259, 26'1-62, 391 SE.2d 556, 557 (1990).* In *Welch*, the Court found: Here, in deciding that grant of a certificate to Welch would not serve the public convenience and necessity, PSC relied exclusively upon the testimony of four licensed carriers

from the midlands and upstate regions. These carriers, potential competitors of Welch, testified that, due to a decrease in business, existing carriers were left with excess capacity to handle a greater number of moves. Additionally, one carrier testified that increased competition would cause cutbacks, resulting in less expensive but inferior quality service. No expert testimony or statistical surveys were presented to indicate that the public convenience is being served. The carriers' testimony related primarily to concerns that increased competition would adversely affect their businesses. Although detriment to the income of existing carriers is relevant, it is not determinative and "should not in itself defeat an application for additional services." Id. (citation omitted).

Because of *Welch*, the presentation of shipper witness testimony has become a perfunctory exercise, and the current practice of presenting shipper witness testimony by live testimony or deposition is unnecessarily expensive and inconvenient for all involved, including the Commission and its staff. Applicant submits that the submission of an affidavit could serve the same purpose without requiring Applicant to bring a witness to its hearing or hire a court reporter and pay counsel to attend a deposition. To illustrate how affidavit testimony could be presented, Applicant submits as Exhibit A an affidavit form which prompts the shipper witness to testify to the same matters typically covered on the stand or in live testimony.

In the present case, no objections or intervenors have appeared, and the matter appears uncontested. Furthermore, the applicant and counsel for applicant have been in touch with regulatory staff and counsel and the application appears to be mostly in order with the exception of minor details which should be easily resolved. The applicant is located in Charleston County and having its shipper witness travel to Columbia to testify is an unnecessary burden where the matter should be uncontested as to all issues.

Therefore, Applicant respectfully requests the Commission allow it to present the testimony of its shipper witness by affidavit.

Respectfully submitted.

Epstein Law, LLC

Dated September 27, 2019

Charleston, South Carolina

s/ Rebecca Epstein

Rebecca R. Epstein

SC Bar No. 78942

720 Dupont Road, Suite A

Charleston, SC 29403

(843) 628-9411

Attorney for Applicant

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1. Personally appeared before me, Jeannette Ososki who, being first duly sworn, testified as follows:

2. I am over 21 and otherwise competent to give testimony in this affidavit. This affidavit is based upon my personal knowledge and I understand it will be relied upon by the South Carolina Public Service Commission and all interested parties regarding the application of Professional Movers of Charleston, LLC("PMC" or "Applicant") for a Class E Certificate of Public Convenience and Necessity for Operation of Motor Carrier. I present this affidavit as a shipper witness in favor of Applicant.

3. I have been a resident of Charleston County for over 25 years, the area which Applicant proposes to conduct business and provide services. I have personally observed the housing trends and growth trends of the area.

4. I am a licensed South Carolina Real Estate Agent and have worked in residential real estate in the proposed area to be served by Applicant for 26 years.

5. There is a need for Applicant's services in Charleston County and surrounding counties of South Carolina, as the state has experienced rapid growth in recent years. Moreover, many buyers of residential houses move within Charleston County, thus a great need for Applicant's services in the area.

6. I have witnessed Charleston's is resilience to economic changes, with it's industry and tourism insulating its economy. People are moving to the Low Country at a rate of approximately 40 people a day thanks to job opportunities, cost and quality of living triggering strong residential construction and business growth. I believe this pattern will continue thru 2020 and beyond.

7. I am also familiar with the Applicant, as the Applicant is my nephew. The Applicant is reliable and will establish a trustworthy business in the field. The area Applicant proposes to serve is in need of a mover just like the Applicant. Further, Applicant has the staff, expertise, motivation and positive attitude to serve the area in an exemplary manner.

8. In my opinion, Applicant is fit, willing and able to provide the services for which they seek an application from this Commission. The area proposed to be served by Applicant is in need of Applicant's services and the need is not being fully served by existing companies. I respectfully submit that Applicant's application should be granted.

Sworn to and Subscribed Before Me

This ____ day of September, 2019

_____ _____

Notary Public for South Carolina Jeannette Ososki

My Commission Expires:_____

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