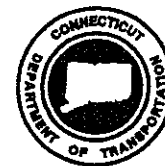


STATE OF CONNECTICUT
DEPARTMENT OF TRANSPORTATION



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Phone:

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DOCKET NO. 0605-AV-35-L

RE: APPLICATION OF PRIME TIME LIMOUSINE, INC. TO OPERATE TEN (10) ADDITIONAL MOTOR VEHICLES, HAVING A SEATING CAPACITY TEN (10) ADULTS OR LESS, IN GENERAL LIVERY SERVICE BETWEEN ALL POINTS IN CONNECTICUT FROM A HEADQUARTERS IN THE CITY OF STAMFORD, CONNECTICUT.

FINAL DECISION

January 9, 2007

I. INTRODUCTION

A. Background

By application filed on May 25, 2006 with the Department of Transportation (hereinafter "department"), pursuant to Section 13b-103(a) of the Connecticut General Statutes, as amended, Prime Time Limousine, Inc. (hereinafter "applicant") located at 30 Commerce Road, Stamford, Connecticut, seeks authorization to operate ten (10) additional 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 the city of Stamford, Connecticut.

B. Hearing

Pursuant to Connecticut General Statutes, Section 13b-103(a), as amended, a public hearing on this application was held on October 19, 2006.

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), as amended. Legal notice to the public was given by publication in the Advocate, a newspaper having a circulation in the area of concern.

A hearing officer designated by the Commissioner, pursuant to Connecticut General Statutes Section 13b-17 conducted the hearing on this matter.

C. Appearances

John Pedone, president of the applicant company, Prime Time Limousine, Inc. appeared on behalf of the applicant, without counsel.

Sheldon Lubin, public utilities examiner, was present at the hearing.

No opposition was presented to this application.

II. FINDINGS OF FACT

I find, by a preponderance of the evidence, the following facts:

1. John Pedone is the president of Prime Time Limousine, Inc., which is authorized to operate from a headquarters in Stamford, Connecticut six (6) motor vehicles in general livery service in addition to twenty (20) motor vehicles in charter and special operations, in interstate commerce, pursuant to Livery Permit Number 2546.
2. The applicant seeks to operate an additional 10 vehicles in intrastate livery service.
3. Often, the applicant has in-state jobs from corporate clients that require more than two or three general livery vehicles at one time. Often, the applicant will receive calls from other clients that require additional vehicles and the applicant cannot provide service because he does not have enough intrastate livery vehicles.

4. There are several Fortune 500 companies located in Stamford, many of which are the applicant's clients.

5. The applicant's corporate clients have board of director meetings in the Stamford area, along with other functions, and often require several vehicles for transportation to and from railroad station, hotels, and their companies.

6. Sometimes the applicant provides service for funerals and has to transfer his marker plates and reregister vehicles so that its vans may be used. This practice is inefficient and burdensome and may be inconvenient for the public.

7. The applicant updates its motor vehicles often, so that the vehicles remain in good condition and in good working order.

8. The Stamford area is expected to grow due to the influx of additional large companies, such as the Bank of Ireland and Royal Bank of Scotland. The applicant is soliciting and expects to receive these company accounts for transportation. The applicant requires additional vehicles to be able to meet the demand.

9. In the past, the applicant has been cited and fined for violations of the regulations and statutes of Connecticut, partly because of its lack of intrastate vehicles with which to provide the service that is requested.

10. The applicant finds itself having to give away accounts to other instate livery providers because it does not have enough vehicles to do the work. It would like to provide for this work and keep its clients, but requires additional vehicles to do so.

11. On any given day, the applicant's six instate general livery vehicles are in use providing trips to the employees of corporate clients.

12. No opposition was presented to the application.

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 offered a balance sheet (dated June 26, 2006) showing total assets in the amount of \$440,981, over \$200,000 in liquid assets and net working capital in the amount of \$126,004. The applicant has less than \$100,000 in total debt. The applicant further provided estimates for the monthly fuel costs for all of the applicant's vehicles, which is approximately \$4,500 and maintenance and repairs are approximated at \$3,500 per year. The applicant provided proof a cash balance in the amount of \$127,959.

The applicant has a fleet of 26 vehicles, which includes 20 interstate livery vehicles and 6 intrastate vehicles, all currently being operated. In October 2006, the applicant purchased a Lincoln Town Car for \$41,937 and the other Town Cars the applicant owns have a fair market value of between \$14,000 and \$18,000. The estimated insurance for each requested vehicle is \$3,767 for a total annual premium of \$37,670. The applicant employs 40 people, who staff a morning shift and evening shift. The applicant contributes approximately 50% to the employees' health benefits. Based on the financial evidence provided, the applicant possesses the financial wherewithal to operate the proposed additional service.

In support of suitability, the applicant included with the application, the requisite criminal conviction history forms for both principals of the company. The criminal conviction history reports show no criminal convictions for the applicant's management. However, a review of the applicant's history shows that the applicant, as its owner John Pedone testified, been cited on several occasions. Most recently, the applicant was cited in 2005 and 2006. The applicant paid a hefty civil penalty for using vehicles with interstate marker plates for intrastate work. Pedone testified that his company has been trying to grow with the new corporations coming into the Stamford area; however, it has been unable to because of lack of vehicles. While this hearing officer is sympathetic to the applicant's plight, there is no excuse for violating the regulatory laws of the industry.

Pedone testified that the department is creating a hardship on the livery industry by assessing high civil penalties and failing to grant additional vehicles without hearing due to pending citations. Albeit the department cites violators of the law, it is done in accordance with state statutes and regulations that require censure of those who conduct their businesses illegally. The statutes were created for and are followed, ultimately, for the safety and well-being of the general public.

With respect to Pedone's argument that the applicant cannot take advantage of the statutory provisions for annually applying for two additional vehicles without hearing because the applicant had a pending citation for the past two years; and the reason for the citations for the past two years were due to using interstate vehicles for intrastate trips because the company did not have enough intrastate vehicles. Based on this argument, the applicant will be afforded an opportunity to break this cycle. Accordingly, the 2005 and 2006 citations will not be held against the applicant's suitability for the purposes of this application.

Lastly, the applicant must prove that the present and future public convenience and necessity will be improved by a grant of additional authority. In support of this requirement, the applicant provided trip/reservation sheets for four days (between August and October 2006), showing that its vehicles are often in use at the same time, providing rides for several employees of one or two companies. As such, the applicant cannot provide other rides that have been requested; resulting in the applicant operating its interstate vehicles intrastate. Pedone testified that he recently gave away an account to another livery company because to try to provide the trip to Bradley Airport would have been too troublesome and costly. Pedone further testified that several new Fortune 500 companies have re-located in the Stamford area and that Pedone is expanding his business to include the new companies, which he has already solicited.

The application of Prime Time Limousine, Inc. will be granted so as to afford the applicant an opportunity to break the cycle it finds itself in. While a grant of the application would improve the present and future public convenience and necessity, the evidence is not to the extent to warrant a grant of 10 additional vehicles. The evidence showed that at one time or another, most or all of the applicant's intrastate vehicles were in use, so a grant of five vehicles would more than adequately meet the public's present and future public convenience and necessity that exists while applicant's the current intrastate vehicles are in use.

The applicant will also have the opportunity each year, if it finds that it needs additional vehicles, to avail itself of the process to receive 2 additional livery vehicles without hearing, in accordance with Connecticut General Statutes Section, since citation matters should not be an issue in the future. Future citations for this company for operating intrastate livery service with interstate marker plates should be non-existent from the date of this final decision forward and will not be treated leniently if proven.

IV. CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact and Discussion, I conclude as a matter of law, that Prime Time Limousine, Inc. possesses the financial wherewithal to operate the proposed additional service, the suitability to operate the proposed service and that the grant of five (5) vehicles will improve the public's present and future convenience and necessity pursuant to Connecticut General Statutes Section 13b-103(b), as amended. The instant application, therefore, is granted in part.

V. ORDER

Permit Number 2546, standing in the name of Prime Time Limousine, Inc. is hereby amended and reissued as follows:

LIVERY PERMIT NO. 2546 FOR THE OPERATION OF LIVERY SERVICE

Prime Time Limousine, Inc. is hereby permitted and authorized to operate eleven (11) motor vehicles, having a seating capacity of less than ten (10) adults in GENERAL LIVERY SERVICE between all points in Connecticut from a headquarters in Stamford.

The additional five (5) vehicles granted shall be registered and placed into operation within 30 days from the date of this final decision.

Prime Time Limousine, Inc. is further permitted and authorized to operate motor vehicles as a common carrier of passengers, in charter and special operations, in interstate commerce under such authorization as issued or amended by the Federal Motor Carrier Safety Administration in the issuance of Certificate No. MC- 240177.

The additional authority granted in this decision may not be sold or transferred until it has been operational, i.e., a vehicle registered with the livery plates thereunder, for not less than twenty-four (24) consecutive months.


This Permit shall remain in effect until it is amended, suspended, or revoked by the Department. Failure of the Permit holder to maintain proper insurance and/or comply with all pertinent motor vehicle laws and other State statutes and/or the rules, regulations and orders of the Department shall be considered sufficient cause to amend, suspend, or revoke this Permit.

This Permit is transferable only with the approval of the Department and is issued subject to compliance by the holder hereof with all motor vehicle laws of the State of Connecticut, and with such rules, regulations and orders as this Department may from time to time prescribe.

A memorandum of this Permit, bearing the seal of the Department, shall be kept conspicuously posted in the motor vehicles operated under this Permit.

Dated at Newington, Connecticut, this 9th day of January, 2007.

CONNECTICUT DEPARTMENT OF TRANSPORTATION



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