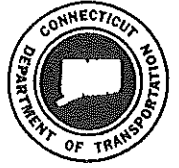




STATE OF CONNECTICUT
DEPARTMENT OF TRANSPORTATION



2800 BERLIN TURNPIKE, P.O. BOX 317546
NEWINGTON, CONNECTICUT 06131-7546

Phone: (860) 594-2875

DOCKET NO. 0806-AV-124-T

RE: APPLICATION OF USA TAXI OF STAMFORD, LLC (FORMERLY USA TAXI AND LIMOUSINE OF STAMFORD, LLC) TO OPERATE TWENTY (20) ADDITIONAL MOTOR VEHICLES, IN TAXICAB SERVICE, WITHIN AND TO AND FROM STAMFORD TO ALL POINTS IN CONNECTICUT.

FINAL DECISION

July 9, 2014

I. INTRODUCTION

A. Application

By application filed on June 17, 2008 with the Department of Transportation (hereinafter "department"), pursuant to Connecticut General Statutes §13b-97, as amended, USA Taxi and Limousine of Stamford, Inc. (hereinafter "applicant" or "USA Taxi") seeks authorization to operate twenty (20) motor vehicles, in taxicab service, within and to and from Stamford to all points in Connecticut.

USA Taxi and Limousine of Stamford, LLC filed an application with the Regulatory & Compliance Unit for re-entitlement to USA Taxi of Stamford, LLC on November 22, 2010 in Application Number 1011-RE-106-T. Accordingly, the applicant will be referred to by its new name, USA Taxi of Stamford, LLC.

B. Hearing

Pursuant to §13b-97(a) of the General Statutes, a public hearing on this application was held at the administrative offices of the department in Newington, Connecticut, on October 29, 31, 2013, November 26, 2013 and January 8 and 10, 2014.

The record also reflects that, although the application was filed in 2008, it was scheduled for hearing in the order in which it was docketed for hearing.¹ The hearing was scheduled after a final decision or judgment was rendered in all of the previously scheduled applications for the territory that is the subject of instant application.²

Notice of the application and of the hearing to be held thereon was given to the applicant and to such other parties as required by §13b-97(a) of the General Statutes, as amended. Notice to the public was given by publication on the department website at www.ct.gov/dot.

A hearing officer was designated by the Commissioner of Transportation to conduct the hearing on this matter, pursuant to General Statutes §13b-17.

C. Appearances

USA Taxi of Stamford, LLC, holder of taxicab Certificate No. 1182, appeared through its owner, Francisco Rendon, and was represented by Edward L. Marcus, Esq. and Mark L. Bergamo, Esq. of the Marcus Law Firm, whose mailing address is 275 Branford, North Branford, Connecticut 06471.

¹ Regulations of Connecticut State Agencies §13b-17-121a provides: "The agency shall maintain a calendar of all hearings. Hearings shall be placed on the hearing calendar in the order in which they are docketed, unless otherwise directed by the commissioner. Hearings shall be placed on docket only when the application has been deemed complete by the commissioner."

² Regs., Conn. State Agencies §13b-17-131a provides "A final decision or judgment shall have been rendered and become effective before any applicant may file a subsequent application seeking additional operating authority of the same type of service, in the same or overlapping territory which is the subject of the pending proceeding."

Stamford Yellow Cab, Inc., d/b/a Eveready Stamford (hereinafter "Eveready Stamford"), holder of taxicab Certificate No. 1065, is authorized to operate in Stamford. Eveready Stamford filed for, and was granted, Intervenor status in this matter. Eveready Stamford appeared through its owner, Vito Bochicchio, Jr., and was represented by Gregory S. Kimmel, Esq. of the law firm of Kimmel & Kimmel, LLC, whose mailing address is Nine Morgan Avenue, P.O. Box 2013, Norwalk, Connecticut 06852-2013.

D. Procedural History

On April 10, 2008, USA Taxi and Limousine of Stamford, LLC filed an application for an expedited taxicab. It was assigned Docket No. 0804-EXP-65-T.³

On June 17, 2008, USA Taxi and Limousine of Stamford, LLC filed the instant application, given Docket No. 0806-AV-124-T. It was placed in queue for hearing.

On November 22, 2010, USA Taxi and Limousine of Stamford, LLC filed an application, given Docket No. 1101-RE-106-T, for re-entitlement to USA Taxi of Stamford, LLC.

On January 6, 2011, USA Taxi Stamford, LLC's application on the expedited vehicle, Docket No. 0804-EXP-65-T, was granted. USA Taxi now had only the application for additional vehicles (Docket No. 0806-AV-124-T) pending in queue for hearing.

On April 9, 2013, USA Taxi filed a subsequent application for an expedited taxicab, given Docket No. 1304-EXP-219-T. On April 9, 2013 the application for additional vehicles (Docket No. 0806-AV-124-T) was still pending and in queue for hearing.

As of October 29, 2013 - the first day of hearing in the instant matter – USA Taxi of Stamford, LLC had two pending applications: 1. Docket No. 0806-AV-124-T (for twenty [20] additional vehicles) and 2. 1304-EXP-219-T (for one [1] expedited vehicle.)

E. Intervenor's Motion to Dismiss

Eveready Stamford filed a Motion to Dismiss the instant application for twenty (20) additional taxicabs on the basis that another application in the name of USA Taxi of Stamford, LLC (dated April 9, 2013 and given Docket No. 1304-EXP-219-T for one additional taxi, expedited) was filed subsequent to the instant application, thereby causing the USA Taxi to have two applications pending at the same time, in violation of the Regulations of Connecticut State Agencies §13b-17-131a.

³ Connecticut General Statutes §13b-97(a) provides in pertinent part: "...[N]otwithstanding any provisions of this subsection to the contrary, the department may, upon receipt of a written application, amend an existing certificate without holding a hearing on the application, provided the department issues a legal notice of such application in a daily newspaper in accordance with the provisions of § 1-2, gives written notice of the pendency of such application to any common carrier operating within the territory specified and no objection is filed with the department within thirty days of each such notice."

The application was taken in by the department, and so as not to prejudice the applicant, the applicant was afforded the opportunity to withdraw one of the two pending applications.

USA Taxi chose to withdraw the application in Docket No. 1304-EXP-219-T (for one [1] expedited vehicle.) Based on this withdrawal, the Motion to Dismiss was denied.

F. Administrative Notice

By request of the parties, administrative notice was taken of the following:

1. *In Re: Application Of USA Taxi Of Norwalk, Inc. To Operate Twenty Motor Vehicles In Taxicab Service Within And To And From Norwalk*, Department of Transportation, Final Decision (October 10, 2012 was appealed to the superior court. Subsequent to the close of evidence in the instant matter, a Memorandum of Decision was issued by Hon. Elliot D. Prescott and the agency decision was affirmed. *USA Taxi of Norwalk, Inc. v. State of Connecticut, Department of Transportation, et al*, Superior Court, judicial district of New Britain, Docket No. HHB-CV-13-6018749-S (March 13, 2014).

2. The taxicab companies authorized to operate taxicab service within and to and from Stamford:

- a) USA Taxi of Stamford, LLC is holder of Certificate No. 1182 and is authorized to operate sixteen (16) taxicabs.
- b) Stamford Yellow Cab, Inc. d/b/a Eveready Stamford is holder of Certificate No. 1065 and is authorized to operate thirty-eight (38) taxicabs.
- c) Independent Taxi Cab Co. Inc. is holder of Certificate No. 1200 and is authorized to operate eight (8) taxicabs.
- d) Della Famiglia, Inc. d/b/a Stamford Taxi is holder of Certificate No. 223 and is authorized fifty-seven (57) taxicabs.

3. Francisco Rendon's criminal conviction history form.

4. The Stamford Transportation Center Master Plan, September 2010, Page 36.

II. FINDINGS OF FACT

1. The applicant, managed by Francisco Rendon, is holder of Certificate No. 1182 and is authorized to operate sixteen (16) motor vehicles in taxicab service within and to and from Stamford, Connecticut.

2. In 2004, the applicant received authorization to provide taxicab service in

Stamford with ten (10) vehicles. The applicant was authorized to operate an additional five (5) taxicabs on August 31, 2007, and one additional taxicab through the expedited process on January 6, 2011, for a total of sixteen (16) taxicabs.

3. Stamford Yellow Cab, Inc. d/b/a Eveready Stamford holds Certificate No. 1065 and is authorized to operate thirty-eight (38) motor vehicles in taxicab service within and to and from Stamford.
4. Between the years of 2000 and 2010, Stamford Yellow Cab, Inc. d/b/a Eveready Stamford applied for, and received, authorization for seven (7) additional taxicabs.
5. Independent Taxi Cab Co. Inc. is holder of Certificate No. 1200 and is authorized to operate eight (8) motor vehicles in taxicab service within and to and from Stamford.
6. Independent Taxi received authorization to operate six (6) vehicles in taxicab service in April 2007, one additional vehicle in 2008 and another additional vehicle in 2010. Between the years of 2000 and 2010, Independent Taxi, Inc. was authorized to operate a total of eight (8) taxicabs.
7. Della Famiglia, Inc. d/b/a Stamford Taxi is holder of Certificate No. 223 and is authorized to operate fifty-seven (57) motor vehicles in taxicab service within and to and from Stamford.
8. Della Famiglia, Inc. d/b/a Stamford Taxi applied for and received authorization for two (2) additional taxicabs between the years of 2000 and 2010.
9. Between the years of 2000 and 2010, Stamford's population grew by 4.7 percent and the population of Hispanic or Latino origin grew by 8.16 percent. Applicant's Exhibit No. 16.
10. The taxicabs in Stamford increased by 32 between 2000 and 2010 as follows: Eveready 7, USA 15, Independent 8 and Stamford Taxi 2, which translates to not less than a 37 percent increase in the taxicab pool between 2000 and 2010 (Not knowing the number authorized in Stamford in 2000 or the number authorized between 2010 and 2014 prevents an exact determination).
11. The taxicab counts as reported in the September 2010 Stamford Transportation Master Plan "were projected for the medium to high growth scenarios as discussed in the report." The amount of calls at the transportation center is manageable within the current system. *Stamford Transportation Master Plan September 2010*, Page 36. Applicant's Exhibit No. 18.

12. Linda Gulia, from New Rochelle, New York, works for Bank of America, but appeared as Rendon's personal friend, not in her capacity of Bank of America employee. She has known Rendon for over 24 years, and has been the account representative for Rendon for the past 8 years. The applicant is in good standing at Bank of America. Gulia owns a livery service in New Rochelle and Rendon used to work for her.
13. Four months of the applicant's computer (dispatch) sheets (applicant's #7), reviewed and analyzed by the applicant's financial witness, showed that the applicant completed an average of 25 calls per Saturday (purported as the busiest day for the applicant), for six hours, over a sixteen week period. Twenty-five calls per day averages 1.5 trips per car per six hour period. In addition, there were approximately 8 calls that were unanswered. If the 8 calls were included in the 25 calls per day, per six hours, each taxicab would have 2 calls, per taxi, per six-hour day.
14. Jose Montoya, lives in Stamford and is a priest for two parishes in Stamford whose memberships total 2000 and includes the applicant and his family. Montoya doesn't use taxicabs, although he calls taxicabs for members in his parish who don't own a car. Although many parishioners leave church at the same time, Montoya has no problem getting taxicabs to show up. People leaving the church wait ten or fifteen minutes for a taxicab.
15. Maria Walker lives in Stamford and sometimes uses the applicant's taxicab service. She can always get a taxicab when she needs it.
16. Joseph Morris has lived in Stamford for three years and uses the applicant's taxicab service twice a day. Morris calls the applicant during commuting hours, at 8 in the morning and 4 in the evening, and waits 15 to 25 minutes, more or less, for a taxicab. He is happy with the applicant's service.
17. Jose Louis Velez has lived in Stamford for two years. He relies on taxicab service to get him to and from the train station. On occasion, if a taxicab is later than 15 to 20 minutes, he will walk to the train station.
18. Naomi Sandoval depends on the applicant's taxicab service. She has only called the applicant and the intervenor for service. She has never called either of the other two taxicab companies in Stamford.
19. Ricardo Sandoval works at a pool hall in Stamford. He uses taxicab service every night to go home from work. He relies on the applicant and when the applicant cannot provide service he calls the intervenor. He has not called either of the other two taxicab companies in Stamford.

20. Carla Ann Wedge lives in Branford and works as a desk service agent at the Hampton Suites in Stamford. One of her duties includes getting taxicab transportation for hotel clients. She only uses USA Taxi of Stamford, LLC for taxicab service for hotel clients - she does not call any of the other three taxicab companies in Stamford. She does not use taxicabs personally. The wait time varies for taxicabs from 15 minutes to 40 minutes at morning rush hour.
21. Gary Libowitz lives in Stratford and works as an assistant parts manager during the day, and at night he works at a bar in Stamford. Libowitz occasionally calls a taxicab for a customer who has had too much to drink between the hours of 10:30 PM and closing, at 2 a.m. Some of the customers wait 5 to 10 minutes for a taxicab and sometimes up to a half of an hour. He does not personally use taxicabs. Libowitz calls only two of the four companies for taxicabs.
22. Eddison Idrobo lives in Stamford and is a limousine driver for GM Limousine, located in Greenwich, Connecticut. Idrobo uses taxicabs and speaks Spanish. He uses the applicant, exclusively, for taxicab service. Sometimes he waits 15 to 20 minutes for the applicant's taxicab.
23. Sonia Polonia is a long-time resident of Stamford and manages a restaurant in Stamford. She doesn't use taxicab service personally, although sometimes she calls a taxicab for patrons of the restaurant. Most of the patrons of the restaurant, including some of the applicant's drivers, are Hispanic. Polonia does not call any of the other taxicab companies in Stamford. Typically, the wait for a taxicab is approximately twenty (20) minutes.
24. Several witnesses who appeared to testify, including Rafael Sotto, Efraem Sefuentes, and Osvaldo Martin, do not speak or understand enough English to comprehend the questions asked of them by the applicant, intervenor or hearing officer.
25. Marilyn Ecay lives in Stamford and is Rendon's friend. She has had to wait twenty (20) minutes for a taxicab. Ecay mostly uses the applicant's company; she has called Stamford Taxi and sometimes she has waited over a half hour for a taxicab. She has not called the other two taxicab companies in Stamford.
26. It is not unreasonable to wait from ten to twenty minutes for a taxicab in Stamford.
27. Pablo C. Ocana is a long-time resident of Stamford and is a full-time limousine driver for the applicant. Ocana supports the approval of the instant application so he can drive a taxicab for the applicant. Ocana purchased a car with the expectation that he would be driving a taxicab for the applicant in Norwalk, but the application was denied.

28. Yvette Lama lives in Stamford and drives a taxicab for the applicant at night. Lama doesn't know how many trips she completes during her shifts. Ninety percent of her customers are Spanish-speaking. She has known Rendon for 10 years. Lama testified at a hearing in support of Francisco Rendon's application for taxicabs in Norwalk.
29. Evelyn Gomez resides in Stamford and is a dispatcher for the applicant. She is the only dispatcher on her shift. When Gomez dispatches, it is frequent that not all 16 cars are available. A couple of cars are usually out for mechanical reasons and four are doing other things. The drivers decide when they want to work.
30. Alejandro Martinez is a resident of Stamford and has been dispatching for the applicant for approximately 5 years. His hours vary and he works between 20 to 25 hours per week. Peak hours are from 6 a.m. to 10 a.m. and 3 p.m. to 6 p.m. He is the only dispatcher on when he works.
31. Luis O. Correa lives in Greenwich and he works as a limousine driver for the applicant's management. He would like to drive a taxicab for the applicant.
32. Francisco Rendon is the owner of USA Taxi of Stamford, LLC and operates sixteen (16) taxicabs in Stamford. He also operates a livery company. All the drivers for the applicant are independent contractors. In addition to the lease fee, the applicant's drivers pay most of the expenses related to operation of the taxicabs they drive.
33. Rendon is Hispanic and his drivers are Hispanic. Witnesses support and seek to use the applicant's taxicab company on the basis of their similar ethnicity.
34. The applicant is the borrower on an unsecured promissory note in the amount of \$28,000 from Francisco Rendon, and one from USA Limousine of Stamford, LLC in the amount of \$38,344.
35. Stone Transportation will insure the applicant for twenty additional vehicles and the insurance will be financed with a 10% deposit. The premium will be approximately \$5,000 per vehicle.
36. Rendon has a list of drivers who will drive for the applicant if the application is approved.
37. The monthly maintenance cost for each vehicle is estimated at \$321 and will be completed by the applicant's mechanic, East Main Automotive, and paid by the owners of the vehicles.
38. Francisco Rendon has no criminal conviction history.

39. A normal shift for the applicant's drivers is 6 a.m. to 5 p.m. Some drivers begin at 5 p.m. and work as long they want to work.
 40. If the applicant receives the additional authority, Rendon will ask the drivers to work the shifts he wants them to work but if they don't want to work the hours he requests, they are not required to.
 41. On April 18, 2013, the department's Regulatory and Compliance Unit, sent a Notice to all taxicab carriers (hereinafter "April 18, 2013 Notice") within the state advising that if any company was using "digital dispatching" and could produce those records, then written trip sheets would not be required. The notice also required the requester to provide a sample of the dispatch system records for approval from the department.
 42. The manager of the Regulatory and Compliance Unit verbally advised the applicant that it did not have to complete trip sheets as of June 2013 because the applicant was using "digital dispatching," a computer dispatching system, in accordance with the April 18, 2013 Notice.
 43. Pursuant to a *Petition for Declaratory Ruling* filed by Ace Taxi Service, Inc. d/b/a Ace Taxi dated October 28, 2013 regarding the April 18, 2013 Notice, the department issued a declaratory ruling dated December 17, 2013 revoking the April 18, 2013 Notice.
 44. The applicant leases an office, on a month-to-month basis.
 45. If the application is granted, the applicant will hire an additional dispatcher.
 46. The applicant has a tariff on file.
 47. On the applicant's busiest days, Saturdays, the applicant's taxicabs provide on average, two trips per hour, per vehicle.
 48. Many of the applicant's trip sheets are incomplete, missing the dates, times, marker-plate notations, drop off locations and times. The applicant's trip sheets show the cost of the trip provided which were similar – most of the trips provided are short trips within and around Stamford.
 49. The applicant's management does not ensure that the drivers that it hires actually work the hours required to cover the demand for taxicab service. Management only "asks" for the drivers to cover certain shifts and if they don't, no action is taken.
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50. Eveready Stamford has drivers who speak Spanish.

III. DISCUSSION

The Department of Transportation has jurisdiction over common carriers, which includes each person, association, limited liability company or corporation owning or operating a taxicab in the State of Connecticut in accordance with Connecticut General Statutes §13b-96, as amended. The department is authorized to prescribe regulations with respect to fares, service, operation and equipment, as it deems necessary for the convenience, protection and safety of the passengers and the public.

Pursuant to §13b-97(a), as amended, any person who applies for authority to operate a taxicab shall obtain from the department a certificate of public convenience and necessity certifying that the public's convenience and necessity requires the operation of a taxicab or taxicabs for the transportation of passengers. No certificate shall be issued unless the department finds that the person is suitable to operate a taxicab service. In so doing the department must take into consideration any convictions of the applicant under federal, state or local laws relative to safety, motor vehicle or criminal violations, the number of taxicabs to be operated under the certificate, the adequacy of the applicant's financial resources to operate the service, the adequacy of insurance coverage and safety equipment and the availability of qualified operators.

In support of suitability, administrative notice was taken of the criminal conviction history form contained in the applicant's permanent file for Certificate No. 1182. The form shows no criminal record for Francisco Rendon, owner of the applicant company, nor was there any evidence presented on the record showing that Rendon had any motor vehicle violations or recent criminal involvement. The applicant had a citation matter in 2009 and the record reflects no citations have been filed since.

As for the adequacy of insurance and the availability of qualified operators, the applicant submitted evidence of a commitment from its insurance company for the requisite insurance coverage for twenty additional vehicles. The applicant also entered into evidence a list of potential drivers for most of the vehicles requested. Most of the drivers listed have the correct endorsement for driving a taxicab. Rendon testified that he can get additional drivers and those drivers who are not properly endorsed are in the process of getting their public passenger endorsements. As for the safety of the vehicles, Rendon testified that the applicant has a mechanic who will check the vehicles for safety equipment and maintenance to keep the vehicles in safe operating condition.

In support of financial wherewithal, the applicant provided financial documentation of its accounts. As of September 2013, the applicant had a cash balance in the amount of \$222,332. The applicant submitted into evidence promissory notes for loans to the applicant from USA Limousine of Stamford, LLC, Francisco Rendon and USA Taxi of Norwalk, LLC, for a total sum of \$146,344. While such loans are acceptable as funds available to the applicant, the testimony regarding these loans is of concern. Rendon testified that he can make these loans because the money can be moved from one pocket to the next because he owns all of the companies. While in theory this may be true, the applicant is reminded that each company has to stand on its own and must be fully able to operate on its own. Funds from his different

companies may not be comingled. *See* Regs., Conn. State Agencies §13b-96-30(b). *See Application of Waterbury Yellow Cab & Service company, Inc. D/B/A Yellow Cab Company to Operate Its Existing Three (3) Motor Vehicles In Taxicab Service Within And To And From Montville to All Points In Connecticut, Final Decision Docket No. 9610-AS-29-T (September 11, 1997).*

The evidence shows that the applicant's current drivers pay a lease fee for the ability to operate their vehicles in taxicab service under the applicant's certificate. The drivers are responsible for the maintenance and taxes and fees associated with driving their cars in taxicab service. If the instant application is granted, the applicant will not incur many more expenses since it is already in operation with an office, dispatchers and mechanic. The applicant will hire additional dispatchers if approved for authority.

Turning to the issue of whether the public's convenience and necessity requires the operation of twenty (20) additional taxicabs, the applicant proffered witness testimony, trip sheets and dispatch sheets to show that the public's convenience and necessity requires the operation of such additional taxicabs.

There were many witnesses who appeared to testify in support of the application. Several of the witnesses who testified did not have a grasp of the English language; they could not understand the questions they were asked, nor could they formulate independent answers to those questions. The testimony of these witnesses was not taken into consideration.⁴

Many of the witnesses were in support of the additional vehicles primarily because their first language is Spanish and the applicant is Hispanic and has represented that the applicant's drivers will be Spanish-speaking. The collective witness testimony showed that the majority of the witnesses had a bias in support of the application based on language or friendship. Many of the witnesses said they were satisfied with the applicant's service and received timely service. Some witnesses did not use taxicab service but called for service for friends or patrons of their establishments and the record showed that these witnesses would call only the applicant's company and not the other taxicab companies in Stamford.

Two witnesses who testified had a vested interest in the applicant receiving additional authority because they wanted to drive for the applicant. Other witnesses testified that the current service is timely and that the applicant provides excellent service. Some witnesses testified that they had to wait up to fifteen minutes for a ride from the applicant, which is a reasonable wait time; and two witnesses testified they had to wait up to thirty or forty minutes, although these same witnesses also testified that they only called two of the four taxicab companies in Stamford.

⁴ The applicant's Notice of Hearing, mailed on May 3, 2013 included the following language: "Parties and intervenors requiring an interpreter (translator) for this public hearing must provide a court certified interpreter and must notify the Department of Transportation by contacting the Department's Administrative Law Unit at (860)594-2875." The applicant did not provide a translator for this hearing.

The applicant argued in support of public convenience and necessity that the Spanish population has increased significantly in Stamford and continues to be on the rise. The applicant argued that all of its drivers speak Spanish and all of the potential drivers for the company would be bilingual in English and Spanish. The applicant also argued that there is a need for additional taxicabs to service the Spanish speaking population. Witnesses testified that they would rather have Spanish speaking drivers. 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). Moreover, there was testimony on the record showing that the intervenor has Spanish speaking drivers. With regard to the increase in the population of Stamford, and the increase in the Spanish population of Stamford, absent reliable records and probative witness testimony, the impact of an increase in population in Stamford on public convenience and necessity for additional taxicabs in Stamford is not known.

Public convenience and necessity means "the benefits to be derived from the operation [of the motor vehicle] will not be limited to a few persons in a particular locality. It means benefit to the public generally, and, in the determination of public convenience and necessity, the effect of the commissioner's action upon the whole public instead of a small part of it must be considered." Rudy's Limousine Service, Inc. v. Department of Transportation et al. 78 Conn. App. 80, 97 (2003).

As for the service that the applicant is currently providing, the applicant testified that his taxicab drivers have no capacity to take on additional calls. However, this is not what the evidence shows. Dispatch sheets were introduced along with trip sheets completed by the applicant's drivers. The dispatch sheets were generated by the applicant's computer in lieu of the drivers' hand written trip sheets that are required by the regulations. Because the dispatch sheets were approved by the manager of the Regulatory and Compliance Unit, failure of the applicant to have the written trip sheets for that period of time will not be held against the applicant's suitability based on said prior approval.

The applicant's witness, Richard Leonard, analyzed the electronic dispatch sheets – not actual trip sheets – (Applicant's Exhibit No. 7) and found that over sixteen (16) Saturdays - the busiest day of the week for the applicant - (in a three month period) for a six-hour period each Saturday, there were approximately 2000 calls logged. The total number of approximately 2000 calls over the 16 day period averages to approximately 125 calls per six-hour period; averaging about 21 calls per hour. Assuming the applicant's full fleet of sixteen taxicabs was on the road, each taxicab would have averaged 1.3 calls per hour for the sixteen Saturdays, the busiest day of the applicant's week. Assuming, instead, that a quarter of the applicant's fleet was off the road for days off or maintenance, the 21 calls per hour averages about 1.75 calls per hour. The evidence clearly shows that each of the taxicabs in the applicant's current fleet has capacity to provide several more calls per hour.

Notwithstanding the above, Leonard's testimony indicated that the dispatch sheets were not an accurate reflection of the work being undertaken. Leonard and Rendon both testified that not all calls that come into the company are logged. Accordingly, the computer dispatch sheets cannot be factored in the analysis of public convenience and necessity and must be given no weight.

Turning to the drivers' trip sheets, this hearing officer reviewed all of the hand-written driver trip sheets entered into evidence as Applicant's Exhibit 12, which should be an accurate representation of the work actually done by the drivers. A random sampling, including three Saturdays (purportedly the applicant's busiest days) and three weekdays, was used to calculate average usage: April 13 and 23, May 8 and 24 and June 6 and 29, 2013.

Analysis of the trip sheets on the random days listed above showed that the applicant's 16 vehicles averaged between 142 to 197 trips per day. On the less busy days, the applicant's taxicabs averaged nine (9) trips per twelve (12) hour period; and on busier days each taxicab averaged twelve (12) trips per twelve (12) hour period – again, confirming, that the applicant's vehicles completed less than two (2) trips per hour, per taxicab. For the most part, the average trips completed by the applicant are short trips, within Stamford, supporting the conclusion that the vehicles were not on long trips out of state, showing they were available to provide more trips if there were the demand.

The applicant's trip sheets proved to be incomplete, missing dates, missing times, and missing marker plate identification. Rendon argued that he cannot get the drivers to complete the trip sheets accurately and they do not record all of the trips that they complete. There was considerable testimony about how, despite his instructions otherwise, drivers do what they want, and there are no consequences.

Evidence was elicited on the record that the applicant enters into a lease agreement with its taxicab drivers, as many taxicab companies do. The lease agreement allows the drivers to operate a taxicab under the owner's certificate. The lessor pays the applicant a certain sum of money so that in the final analysis, it does not matter to the certificate holder if a driver works or not. Rendon testified that he does not have "control" over his drivers and he cannot require them to work specific hours or to remain in service. That should not be the case. The certificate holder has the burden of providing taxicab service to the public. If the certificate holder's drivers do not or cannot provide the service, then it is up to the certificate holder to ensure through its business decisions, that it has drivers who are willing and able to meet the demand for service.

Francisco Rendon also testified that he cannot require the drivers to, complete trip sheets accurately or take dispatched calls because the drivers are independent contractors. However, that argument is irrelevant to the issue of public convenience and necessity. Moreover, as the certificate holder, the applicant's management/owner,

Rendon, is responsible for ensuring that the applicant's drivers comply with the statutes and regulations and cover the calls that the company receives. How the management of a taxicab company does that is his or her business decision. Even if a driver is an independent contractor, the driver would not be working as a taxicab driver if not for the taxicab company's authority to provide such service. The driver trip sheets show that the applicant's current fleet has capacity to provide more rides per car than is currently being provided.

This hearing officer looked at such evidence, to wit: the carrier reports used by the applicant to make the argument concerning taxicab increases in Stamford for the period of 2000 – 2010, in the light most favorable to the applicant so as not to prejudice the applicant.

IV. CONCLUSIONS OF LAW

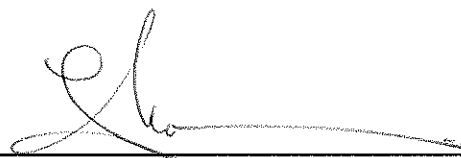
Based on the evidence of record, the facts support a conclusion the applicant's management possesses the suitability to operate the proposed service in that he does not have criminal or motor vehicle violations, the applicant possesses adequate financial resources to operate additional taxicabs service proposed, the applicant possesses adequate insurance coverage and safety equipment and drivers for the additional taxicabs requested. However, the evidence does not support a grant of authority as the public's convenience and necessity does not require additional taxicabs in the area of concern.

V. ORDER

Therefore, based upon the above and pursuant to Connecticut General Statutes §13b-97, as amended, the application of USA Taxi of Stamford, LLC is hereby denied.

Dated at Newington, Connecticut, on this 9th day of July 2014.

CONNECTICUT DEPARTMENT OF TRANSPORTATION



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Bureau of Finance and Administration