Alabama Public Service Commission
P.O. Box 304260
Montgomery, Alabama 36130

www.psc.state.al.us

Application for Passenger Motor Carrier

(EXCEPT TAXI & CHARTER BUS)

Form No. 14

Instructions for completing application:

- Complete the application pages 6 thru 10 and return to the address given above.
- Application fees are nonrefundable. Use certified check or money order. No cash will be accepted.
- Questions concerning the application should be directed to the Transportation Division at (334) 242-5176.
- Questions concerning a tariff should be directed to Rates and Services at (334) 242-5172.
- Questions concerning the hearing or subsequent status should be directed to the Legal Division at (334) 242-5200.

Important notice regarding revocation:

- When an order is received granting the authority, your company **cannot operate** until the required insurance and tariff filings are made. Failure to do these filings will result in the authority being revoked.
- Annual Reports of your company's operations will be required. Failure to file will result in the authority being revoked. The annual report form will be mailed each year in March to be completed by April 30th. The forms are also available on the Alabama Public Service Commission website.
- Failure to maintain current insurance will result in your company's authority being revoked.

GUIDELINES AND SUGGESTIONS FOR PASSENGER MOTOR CARRIER APPLICANTS

1.) All motor carrier applications other than those seeking non-profit or charter bus authority will automatically be set for hearing at the Alabama Public Service Commission (the "APSC" or the "Commission") Hearing Complex in Montgomery, Alabama and must be attended by the submitting applicant or a bona fide officer or authorized full-time employee of the Applicant.

2.) Motor carriers who have authority from the APSC or those who have pending an application seeking such authority may protest an application that is set for hearing. Potential Protestants to an application must notify the Applicant and the Commission in writing of their intention to protest no later than seven (7) days prior to the scheduled hearing date for the application being protested.

3.) Regardless of whether an application is protested, the hearing conducted will be a formal, legal proceeding. The burden of proof is on the Applicant to demonstrate on the record compiled at the hearing that (1) the Applicant is fit, willing and able to provide the service proposed in its application, and (2) that there is a need for the proposed service which existing carriers can not or will not meet.

4.) In order to prepare for hearing, Applicants should read and be familiar with the APSC Rules of Practice, paying particular attention to Rule 8(D), Rule 14, Rule 17 and Rule 20 (the Rules of Practice are available on the Administrative Division link found at the APSC's homepage at www.psc.state.al.us).

5.) All motor carrier applicants should also read and be familiar with §37-3-11 of the *Code of Alabama, 1975* and the case notes accompanying that Code Section (attached hereto).

6.) If an Applicant is not prepared for hearing, a continuance may be requested.

7.) Applicants who are being protested are encouraged to seek the advice of legal counsel. At a minimum, Applicants who are protested should personally contact the carriers who have submitted protests to determine if their concerns can be addressed before the scheduled hearing through a restrictive amendment or otherwise.

8.) **Applicants who have submitted an application that is protested should not come to hearing without a public witness unless all protests to their application are withdrawn prior to hearing.** Testimony from the applicant and/or employees, family members, etc of the applicant, by itself is typically insufficient to support a recommendation that an application be granted.

9.) Following a protested hearing, the Administrative Law Judge ("ALJ") who presided over the hearing will review the transcript when received and issue a recommendation regarding the application under review in a Report and Recommended Order ("RRO") which will be served on all parties. That RRO will reflect the recommendation of the ALJ and provide further instruction on how each party should proceed regarding the recommendation contained in the RRO. Once any exceptions and replies to a RRO are received and considered, an application is ripe for consideration and a vote by the full Commission.

§ 37-3-11. Certificate of public convenience and necessity — Issuance generally.

(a) Subject to the provisions of Section 37-3-14 and to the provisions of subsection (b), a certificate shall be issued to any qualified applicant therefor, authorizing the whole or any part of the operations covered by the application, if it is found, after public hearing of the application, that the applicant is fit, willing, and able to properly perform the service proposed and to conform with the provisions of this chapter and requirements, rules, and regulations of the commission thereunder, and that the proposed service, to the extent to be authorized by the certificate is or will be required by the present or future public convenience and necessity; otherwise, the application shall be denied. No certificate shall be issued to any common carrier of passengers by motor vehicle for operations over other than a regular route or routes and between fixed termini, except as the carriers may be authorized to engage in special or charter operations.

(b) Before granting a certificate to a common carrier by motor vehicle, the commission shall, among other things, consider all of the following:

(1) Whether existing transportation service of all kinds is adequate to meet the reasonable public needs.

(2) The financial ability of the applicant to furnish adequate, continuous, and uninterrupted service the year around.

(3) The advantages to the public of the proposed service.

(c) Notwithstanding subsections (a) and (b), a certificate shall be issued to any qualified household goods carrier upon application and without the necessity of a hearing, if it is found that the applicant is fit, willing, and able to properly perform the service proposed and to conform with this chapter and the requirements, rules, and regulations of the commission. (Acts 1939, No. 669, p. 1064, § 9; Code 1958, T. 48, § 301(9); Act 2001-370, p. 474, § 1.)

HISTORY

Amendment notes:

The 2001 amendment, effective August 1, 2001, in subsection (a) deleted "of this section" following "(b)", substituted "the application shall be denied. No" for "such application shall be denied; provided, that no such", and substituted "the carriers" for "such carriers"; in subsection (b) in the introductory matter inserted"all of", and in subdivision (1) substituted the concluding period for "; and"; added subsection (c); and made nonsubstantive changes.

CASENOTES

Order limiting company's certificate to certain counties was just and reasonable. Where company failed to show that its proposed statewide service would be superior to that service presently authorized by existing carriers, and failed to show that the proposed statewide operations would serve any useful purpose that could not or would not be met by existing carriers, company did not demonstrate that existing transportation services were inadequate statewide to meet the reasonable public needs. Therefore, Alabama Public Service Commission's order limiting company's certificate to certain counties was just and reasonable. Alabama Public Service Com'n v. Billy Barnes Enterprises, Inc., 650 So.2d 879 (Ala. 1994).

Cited in Neely Truck Line v. Evergreen Transp., Inc., 607 So.2d 149 (Ala.1992); Silvey Barron Trucking, Inc. v. Massey Hauling Co., 611 So.2d 251 (Ala.1992).

Presumptions.
Requirements.
Review.
Cited.

Authority of commission.

The public service commission is not deprived of the authority to grant a certificate of convenience and necessity separate from its passenger-carrier certificate to a passenger carrier authorizing it to transport express in vehicles other than passenger-carrying vehicles upon a proper showing by the applicant. Railway Express Agency v. Alabama Pub. Serv. Comm'n, 265 Ala. 369, 91 So. 2d 489 (1956).

Burden of proof.

Applicant for certificate must affirmatively show that certification requirements of this section have been met. Southern Haulers, Inc. v. Alabama Pub. Serv. Comm'n, 331 So. 2d 660 (Ala. 1976).

Construction with other law.

The terminology of Title 48, § 82, Code of 1940 (now § 37-1-124) is to be construed in connection with § 301(9) (now this section) requiring the issuance of the certificate if it be found, after a public hearing, that the proposed service will be required by the present or future public convenience and necessity. North Ala. Motor Express, Inc. v. Rookis, 244 Ala. 137, 12 So. 2d 183 (1943).

Evidence — Admissible.

Evidence that common carriers now engaged in like transportation were leasing many private trucks to supplement their equipment was admissible in case regarding issuance of certificate of convenience and necessity; not that leasing some trucks as a reserve to meet fluctuating demands would evidence inadequacy of existing facilities; but evidence of leasing in large numbers, and the frequent calls for service, was properly admitted as a circumstance to be considered in connection with the whole evidence disclosing the over-all situation with which the commission must deal. North Ala. Motor Express, Inc. v. Rookis, 244 Ala. 137, 12 So. 2d 183 (1943).

Evidence — Generally.

The unsworn letters written by shippers at the instance of the applicants were not evidence to be considered in reviewing case on appeal regarding issuance of certificate of convenience and necessity; they were merely received by the chairman, the question of their consideration or probative force being left open to be determined by the commission. North Ala. Motor Express, Inc. v. Rookis, 244 Ala. 137, 12 So. 2d 183 (1943).

For commission to find that applicant for certificate for common carrier is fit, willing, and able, sufficient evidence must be in record to support that conclusion. Alabama Pub. Serv. Comm'n v. Greyhound Lines, 346 So. 2d 1136 (Ala. 1977).

The public service commission's order granting a courier company general commodities authority was not supported by the substantial weight of the evidence, but the administrative law judge's recommended order granting the courier company limited authority was supported by the substantial weight of the evidence. Purolator Courier Corp. v. Alabama Pub. Serv. Comm'n, 514 So. 2d 832 (Ala. 1987).

Evidence — Insufficient.

Where applicant was able to show that its faster service to those members of the public who elected to pay an increased fee was more convenient, but where there was at least some doubt as to the financial feasibility of continuing such service, the evidence did not establish that such service was required by public convenience and necessity. Alabama Pub. Serv. Comm'n v. B & B Transp. & Limousine Serv., 397 So. 2d 120 (Ala. 1981).

Fact of a prior violation is not continuing evidence of unfitness in light of trucking company's stated willingness to now comply with the rules and regulations of the Alabama Public Service Commission and in light of the Commission's authority to monitor company's ongoing operations and to revoke its authority in the event of future violations. Alabama Pub. Serv. Comm'n v. Hurtsboro Trucking Co., 565 So. 2d 152 (Ala. 1990).

Findings.

Public service commission's findings of fact and conclusions of law were taken as prima facie just and reasonable, even though the commission's conclusions of law differed from those of administrative law judge because the commission's conclusions of law were supported by the administrative law judge's findings of fact. Harbin v. Alabama Pub. Serv. Comm'n, 474 So. 2d 63 (Ala. 1985).

"Necessity".

"Necessity" as that word is used in this section means reasonably necessary for the public good. Service Express, Inc. v. Baggett Transp. Co., 281 Ala. 666, 207 So. 2d 418 (1968).

Requirement of showing of public necessity means not that service must be absolutely indispensable, but instead means merely that service must be reasonably necessary for public good. Southern Haulers, Inc. v. Alabama Pub. Serv. Comm'n, 331 So. 2d 660 (Ala. 1976).

Presumptions.

When evidence is heard by an administrative law judge or hearing examiner, the findings of

the administrative law judge or examiner are presumed correct and will be reversed only if plainly and palpably wrong. The public service commission could not overcome this presumption by erroneously characterizing factual findings as conclusions of law. Alabama Pub. Serv. Comm'n v. Purolator Courier Corp., 533 So. 2d 237 (Ala. 1988).

Requirements.

While there is no absolute requirement that individual members of the public testify as to public convenience and necessity, there must be some sort of showing that service is required by the present or future public convenience and necessity. Alabama Pub. Serv. Comm'n v. B & B Transp. & Limousine Serv., 397 So. 2d 120 (Ala. 1981).

Proof of public convenience and necessity requires an affirmative showing that the proposed operations are superior to those of presently authorized carriers or that the proposed operations will serve a useful purpose which cannot or will not be met by existing carriers; the requirement of a showing of public necessity, however, does not mean that the service has to be absolutely indispensable but, rather, it means that the service must be reasonably necessary for the public good. Alabama Pub. Serv. Comm'n v. Wells Fargo Armored Servs. Corp., 495 So. 2d 42 (Ala. 1986).

If there is a finding that the applicant is not fit, willing, or able to properly perform and conform, or that the proposed service is not or will not be required by present or future public convenience and necessity, the application will be denied. Silvey Barron Trucking, Inc. v. Massey Hauling Co., 611 So. 2d 251 (Ala. 1992).

Review.

Once the commission makes a decision, the order shall be taken as prima facie just and reasonable. Alabama Public Serv. Comm'n v. C.I.M. Trucking, Inc., 585 So. 2d 1343 (Ala. 1991).

The order of the Alabama public service commission is usually taken to be prima facie just and reasonable, and the burden to show the contrary is on the party who would overturn the order, but when the case is conducted before a hearing examiner and not the commission members themselves, the presumption will be accorded the examiner's findings of fact. Silvey Barron Trucking, Inc. v. Massey Hauling Co., 611 So. 2d 251 (Ala. 1992).

Cited in Alabama Pub. Serv. Comm'n v. Crow, 247 Ala. 120, 22 So. 2d 721 (1945); Vann Express, Inc. v. Bee Line Express, Inc., 347 So. 2d 1353 (Ala. 1977); Alabama Pub. Serv. Comm'n v. Redwing Carriers, Inc., 366 So. 2d 1111 (Ala. 1979); Alabama Public Serv. Comm'n v. C.I.M. Trucking, Inc., 585 So. 2d 1343 (Ala. 1991); Neely Truck Line v. Evergreen Transp., Inc., 607 So. 2d 149 (Ala. 1992).

APSC FORM NO. 14

PASSENGER
(EXCEPT TAXI & CHARTER BUS)

DOCKET NO. _____
(Commission use only)

APPLICATION FOR MOTOR CARRIER CERTIFICATE
Before the
ALABAMA PUBLIC SERVICE COMMISSION
P.O. BOX 304260
MONTGOMERY, AL 36130

This Application should be typed or neatly printed, properly signed and sworn to, and one copy filed with the Commission. If any section herein in not applicable to the proposed operation, so state.

SECTION I

Applicant_____
(Legal name)

Doing Business as_____
(Trade name)

Business Address_____
(Must be a physical address – cannot be a post office box)

_____
(City) (State) (Zip Code)

Mailing Address_____
(May be a post office box)

_____
(City) (State) (Zip Code)

(_____)_____ (_____)_____ _____
(Telephone Number) (Facsimile Number) (Email address)

SECTION II

A. APPROPRIATE AUTHORITY IS APPLIED FOR TO:

☐ Institute a new operation ☐ Extend an existing operation (_____Cert. No.)
☐ Change an operation ☐ Engage in Dual Operations

B. AS A:

☐ Common; ☐ Contract; **OR** ☐ Both Common and Contract carrier by motor vehicle

C. IN INTRASTATE COMMERCE ROUTES IN THE TRANSPORTATION OF:

☐ Regular routes **OR** ☐ Irregular routes in the transportation of:

☐ Passengers and their baggage

As follows: (Give detailed description of territory, or if appropriate, routes and intermediate and/or off-route points)

SECTION III

The proposed operation will be:

A. ☐ Year-round

OR

☐ Seasonal between _____and _____
(Day & Month) (Day & Month)

B. ☐ On Schedule

Approximately_____times each_____
(Number) (Day, week, month, year)

OR ☐ Not on Schedule **OR** ☐ On Call

Applicant proposes to use approximately (number of) _____ motor vehicles of the kind and type described in Appendix "A" hereto attached. (Give detailed description showing type, make, model, rated capacity and motor number.)

SECTION IV

☐ $100.00 filing fee paid (**cashier's check or money order only**)

☐ A financial statement, showing in detail applicant's current financial condition, is attached hereto as Appendix "B".

☐ A map showing the proposed operation, also the pertinent portions of applicant's present authority, if any, is attached as Appendix "C".

☐ An executed and dated copy (s) of contract (s) under which applicant proposes to operate is/are attached as Appendix "D". (Note: Applicants for a permit to operate as a contract carrier must furnish this information.)

☐ Copy of Articles of Incorporation or Articles of Organization is attached as Appendix "E" or is already on file with the Alabama Public Service Commission under Docket Number_____. If a foreign corporation or LLC, attach a copy of registration with the Alabama Secretary of State.

SECTION V

The extent, if any, to which the applicant is directly or indirectly affiliated with, controlled by, or under common control or management with any other carrier subject to Chapter 37-3, Code of Alabama 1975, is as follows:

SECTION VI

Applicant will introduce approximately_____witnesses at the hearing, and will require
(Number)

Approximately_____hour(s) to present evidence.
(Number)

SECTION VII

Applicant understands that the filing of this application does not, in itself, constitute authority to operate; will submit such additional information in connection with this application as the Commission may require; and will comply with requirements of Chapter 37-3, Code of Alabama, and the rules and regulations of the Commission made hereunder, as are applicable to the operations herein proposed.

SECTION VIII

Name and address of the contact person that can answer questions about this application or supply additional information:

_____
(Name)

_____
(Address)

_____
(City) (State) (Zip Code)

_____
(Telephone Number)

_____
(Facsimile Number)

_____
(Email Address)

OATH

County of_____

State of_____

Name of Affiant _____
being duly sworn, states that he/she files this application as (indicate whether owner, or proprietor, title as officer of applicant corporation or association, member of applicant partnership, or other authorized representative of applicant)_____that in such capacity, he/she is qualified and authorized to file and verify such application; that he/she has carefully examined all the statements and matters contained in the application, and that all such statements made and matters set forth therein are true and correct to the best of his/her knowledge, information and belief and that he/she is a United States citizen. Affiant further states that the application is made in good faith; with the intention of presenting evidence in support thereof in every particular.

(Signature of Affiant)_____

Subscribed and sworn to before me, a notary in and for said State and County above named.

Date:_____

(Notary Public)_____

(Seal)

My Commission Expires:_____

APPENDIX "B"
FINANCIAL STATEMENT

A financial statement (balance sheet and income/expense statement) for the most recent tax year may be used in lieu of this document.

NET WORTH

ASSETS:

Cash on Hand	
Checking Account Balance	
Money in Savings Accounts	
Market Value of Home(s)	
Market Value of Businesses	
Furniture, Equipment, etc	
Resale Value of Automobiles	
Money owed to you	
Certificates of Deposit (CDs)	
Stocks/Bonds/Mutual Funds	
Other:	
TOTAL ASSETS:	**$**

LIABILITIES:

Mortgage and/or Real Estate Loan	
Utilities	
Maintenance Bills	
Payroll	
Automobile Loan(s)	
Installment Contracts	
Credit Card Debts	
Loans	
Judgments	
Cash Advances	
Taxes Owed	
Medical Bills	
Other:	
TOTAL LIABILITIES:	**$**

To find net worth:

TOTAL ASSETS	
(Subtract) TOTAL LIABILITES	
THIS IS YOUR NET WORTH	**$**