**APSC FORM 12**
**(Taxi)**

DOCKET NO._____
(Do not fill in)

# BEFORE THE
# ALABAMA PUBLIC SERVICE COMMISSION

This application should be properly filled in, signed and sworn to, and the original and one (1) copy returned to:

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

I. Application of _____
(Legal Name)

DBA _____
(Trade Name)

BUSINESS ADDRESS_____
(Street, Highway, or Rural Route and Box Number)

_____
(City) (State) (Zip Code)

MAILING ADDRESS _____

_____ _____ _____
(Telephone Number) (Fax Number) (Email Address)

for a certificate of public convenience and necessity to operate as a common carrier under the provisions of the Alabama Motor Carrier Act in intrastate transportation of passengers and their baggage in special or charter taxi operations over irregular routes within the territory hereinafter described, and respectfully shows:

II. That applicant is ( ) Individual ( )Partnership ( ) Corporation.

III. That in support hereof, Exhibits "A" , "B" , "C" , "D" , and "E" are attached hereto and made a part hereof.

IV. That there is attached hereto a ( ) Cashier's Check ( ) Money Order in the amount of $100.00 in payment of application fee required by law. (Make payable to: Alabama Public Service Commission.)

V. That applicant will submit such additional information in connection with this application as the Commission may require and will comply with such requirements of the Alabama Motor Carrier Act and the Commission's rules and regulations thereunder as are applicable to the operations herein proposed.

VI. PROPOSED TERRITORY

Form: (A)_____
(base area)

To: (B)_____ ;

and from points in (B) to points in (A) .

Instructions:

The base area in Section (A) should represent the primary territory in which a carrier conducts operations and should be specifically defined in terms of a city or county area. The territory in Section (B) should include all points the carrier desires to serve outside the base area. The above language describes operations transporting passengers:

1. Between points within the base area.

2. From points in the base area to the territory described in Section (B).

3. From the territory described in Section (B) to the base area.

EXHIBIT "A"

COPY OF ARTICLES OF INCORPORATION, PARTNERSHIPS OR ASSOCIATION
(Attach Separately)

EXHIBIT "B"

STATEMENT CONCERNING QUALIFICATIONS AND EXPERIENCE OF APPLICANT

EXHIBIT "C"

STATEMENT CONCERNING OWNERSHIP OF PROPERTY AND FINANCIAL CONDITION OF APPLICANT. (Note: If a partnership, file a statement separately as to each partner.)

ASSETS: As of_____, _____.
(latest current date)

| | | |
|---|---|---|
| Cash on hand and in bank | $ | _____ |
| Land and building | | _____ |
| Trucks (value as of balance sheet date) | | _____ |
| Tractors | | _____ |
| Trailers | | _____ |
| Buses | | _____ |
| Automobiles | | _____ |
| Investments (Stocks, bonds, other securities) | | _____ |
| Other assets (describe) | | _____ |
| TOTAL | $ | |

LIABILITIES:

| | | |
|---|---|---|
| Mortgage on land and buildings | $ | _____ |
| Balance owed on vehicles | | _____ |
| Other liabilities (describe) | | _____ |
| TOTAL | $ | |

NET WORTH $

EXHIBIT "D"

PUBLIC CONVENIENCE AND NECESSITY

(Set forth briefly the reasons why the proposed service is or will be required by present or future public convenience and necessity.)

EXHIBIT "E"

DESCRIPTION OF EQUIPMENT

(Describe all vehicles to be used by applicant in the operation covered by this application.)

| TYPE | MAKE | MODEL | SEATING CAPACITY | MOTOR NO. | LICENSE |
|---|---|---|---|---|---|
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |

# AFFIDAVIT

STATE OF _____

COUNTY OF_____

Before me, _____, a Notary Public in and for said county, in

said state, personally appeared _____, who being by me first duly sworn, says that he/she is authorized to make this affidavit on behalf of applicant in the above and foregoing application; that the allegations and statements contained in said application and exhibits thereto attached are full, true, and correct, according to the best of his knowledge, information and belief and that he/she is a United States citizen.

_____
(Affiant)

Sworn to and subscribed before me, this _____day of _____, _____.

_____
(Notary Public)

( Seal )

My Commission expires _____.

ATTORNEY OR REPRESENTATIVE:

_____
(Name)

_____
(Address)

_____

_____
(Telephone Number)

_____
(Email Address)

## 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).