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BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Authority of)
Affordable Tours & Transportation, Inc.) Case No. 11-⁴⁹⁰¹-TR-UNC
(d.b.a. Urban Express Transportation))
to Operate in the State of Ohio.)

MOTION FOR A SHOW CAUSE ORDER

The Staff of the Public Utilities Commission of Ohio (Staff) respectfully moves the Public Utilities Commission of Ohio (Commission) to issue an order, pursuant to O.A.C. 4901-5-03, requiring Affordable Tours and Transportation, d.b.a Urban Express Transportation (Affordable Tours), to show cause why its operating certificate should not be revoked for failure to maintain liability insurance. This motion is supported by good cause as demonstrated in the attached memorandum in support.

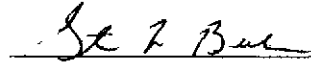
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Respectfully submitted,

Ohio Attorney General Michael DeWine

William L. Wright
Section Chief, Public Utilities Section



John H. Jones

Steven L. Beeler

Assistant Attorneys General
Public Utilities Section
180 East Broad Street, 6th Floor
Columbus, OH 43215-3793

Phone: (614) 466-4395

Fax: (614) 644-8764

john.jones@puc.state.oh.us

steven.beeler@puc.state.oh.us

www.ohioattorneygeneral.gov

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

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Affordable Tours & Transportation, Inc.)	Case No. 11-____-TR-UNC
(d.b.a. Urban Express Transportation))	
to Operate in the State of Ohio.)	

MEMORANDUM IN SUPPORT

I. INTRODUCTION

Motor Carriers in the state of Ohio shall not operate without insurance.¹

Affordable Tours and Transportation, d.b.a Urban Express Transportation (Affordable Tours) has failed to provide to the Staff of the Transportation Department of the Public Utilities Commission of Ohio (Staff) evidence of liability insurance required to maintain operating authority. Affordable Tours' operating authority should be revoked. As such, the Public Utilities Commission of Ohio (Commission) should issue an order requiring Affordable Tours to show cause why its operating certificate should not be revoked for failure to maintain liability insurance.

II. ARGUMENT

- A. Affordable Tours has failed to provide evidence of liability insurance to maintain its Commission issued operating certificate. This requires that its operating certificate must be revoked.**

¹ O.A.C. 4901:2-13-01(A); O.A.C. 4901:2-13-09(A); R.C. 4921.11.

Affordable Tours is a motor transportation company² with authority to operate under Certificate of Public Convenience, No. 505094, issued by the Commission on August 9, 2010. Affordable Tours is under the jurisdiction of the Commission and subject to Commission statutes and regulations. Affordable Tours has failed to maintain liability insurance, a requirement under the Commission's statutes and regulations. R.C. 4921.11(B) states that:

[n]o certificate of public convenience and necessity shall be issued by the public utilities commission to any motor transportation company until it has filed with the commission a liability insurance certificate, policy, or bond satisfactory to the commission, in such sum and with such provisions as the commission deems necessary adequately to protect the interests of the public, having due regard for the number of persons and amount of property affected. Such liability insurance certificate, policy, or bond shall insure such company against loss sustained by reason of the death of or injuries to persons and for loss of or damage to property resulting from the negligence of such company. (Emphasis added).

Rule 4901:2-13-01(A), Ohio Administrative Code (O.A.C.) that amplifies the statute states that:

[n]o motor transportation company*shall engage in intrastate commerce in Ohio, and no certificate shall be issued to a motor carrier, or remain in effect, unless that motor carrier has filed with and had approved by the public utilities commission of Ohio a certificate of liability insurance or bond,** insuring the motor carrier, and shippers employing contract motor carriers, to protect the public against loss sustained by reason of the death of or bodily injuries to persons and for loss of or damage to property (except cargo) resulting from the negligence of that motor carrier. (Emphasis added).

² R.C. 4921.02.

Despite requests from Staff, Affordable Tours has not filed any evidence of liability insurance or bond. As a result, Affordable Tours' operating authority should be revoked in accordance with R.C. 4921.11 and O.A.C. 4901:2-13-01.

Currently, Affordable Tours' authority to operate is suspended. Staff received an insurance cancellation notification from National Casualty Company showing that Affordable Tours' insurance was canceled as of July 13, 2011. In accordance with the Commission rules, Staff immediately mailed a Notice of Suspension of Operating Authority to Affordable Tours by regular mail.³ The notice stated that Affordable Tours' registration had been suspended and that no further operations could be conducted until the appropriate evidence of insurance was received by the Commission. An identical notice was sent by certified mail on July 20, 2011. According to the United States Postal Service's website, the certified letter was delivered on July 23, 2011.⁴

The Commission's rules provide that when a motor carrier's right to operate is suspended for more than thirty days, and the carrier has not filed evidence of insurance with the Commission, the carrier's operating authority shall be revoked. O.A.C. 4901:2-13-09(C) states that:

[w]henver a motor carrier's right to operate is suspended under this rule for more than thirty days, and the carrier has not filed evidence of insurance with the commission, the operating authority shall be revoked pursuant to a commission order.

³ O.A.C. 4901:2-13-09(A).

⁴ Attached to this Motion is a copy of an Affidavit of Leonard J. Shenk that provides as attachments the Notice of Suspension of Operating Authority, the certified mail envelope, and a delivery-confirmation printout from the United States Postal Service's website.

Affordable Tours' right to operate has been suspended for more than thirty days and it has not filed evidence of liability insurance with the Commission. Therefore, the Commission should issue an order directing Affordable Tours to show cause why its operating certificate should not be revoked for failure to maintain liability insurance.

B. A show cause hearing is appropriate.

In cases where the Commission must decide whether a motor carrier operating certificate should be revoked, O.A.C. 4901-5-03 sets forth the show cause hearing procedure. The Commission's order shall set forth the facts on which the citation is based.⁵ The citation order shall require the carrier to file a written answer within fifteen days of the effective date of the order.⁶ The carrier must answer the order to show cause within fifteen days and either admit or deny each separate allegation of the order to show cause.⁷ If a carrier fails to answer an order to show cause, the Commission shall proceed to revoke authority.⁸ If an answer is filed by the carrier, the matter shall be assigned for hearing unless the answer of the carrier is deemed to be satisfactory, in which event the order to show cause may be dismissed.⁹

Affordable Tours' right to operate has been suspended for more than thirty days and it has not filed evidence of liability insurance with the Commission. For these reasons, a show cause order is appropriate.

⁵ O.A.C. 4901-5-03(A).

⁶ *Id.*

⁷ O.A.C. 4901-5-03(B).

⁸ O.A.C. 4901-5-03(C).

⁹ *Id.*

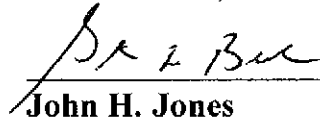
III. CONCLUSION

Affordable Tours' operating authority has been suspended for more than thirty days and it has failed to file evidence of insurance with the Commission. Pursuant to the Commission's rules, Affordable Tours' operating authority should be revoked. Staff respectfully requests that the Commission issue an order in this proceeding requiring Affordable Tours to show cause why its operating certificate should not be revoked for failure to maintain liability insurance.

Respectfully submitted,

Ohio Attorney General Michael DeWine

William L. Wright
Section Chief, Public Utilities Section



John H. Jones

Steven L. Beeler

Assistant Attorneys General
Public Utilities Section
180 East Broad Street, 6th Floor
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Phone: (614) 466-4395

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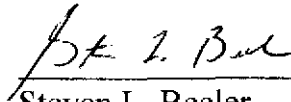
john.jones@puc.state.oh.us

steven.beeler@puc.state.oh.us

www.ohioattorneygeneral.gov

CERTIFICATE OF SERVICE

I certify a copy of the foregoing was served upon Keith Atieh, President of Affordable Tours & Transportation Inc., d.b.a. Urban Express Transportation, 1640 E. 5th Ave., Columbus, OH 43219 by certified mail and upon Eric L. Weeden, Esq., attorney for Respondent, 2770 E. Main St., Suite 21, Columbus, OH, 43209 by regular U.S. mail this 26th day of August, 2011.

A handwritten signature in black ink, appearing to read "St. L. Beeler", is written over a horizontal line.

Steven L. Beeler
Assistant Attorney General

STATE OF OHIO)
) **AFFIDAVIT OF LEONARD J. SHENK**
COUNTY OF FRANKLIN)

I, Leonard J. Shenk, being first duly sworn, depose and state as follows:

1. My name is Leonard J. Shenk and I am employed by the Public Utilities Commission of Ohio ("PUCO" or "Commission") as the chief of the Administrative Services Division of the Commission's Transportation Department. I have personal knowledge of the substance of this affidavit.

2. I have been the chief of the Administrative Services Division for seven years. My duties include ensuring that motor transportation companies conducting operations in the State of Ohio are properly registered with the PUCO and have evidence of insurance on file with the Commission.

3. Pursuant to Section 4921.11 of the Ohio Revised Code and Rule 4901:2-13 of the Ohio Administrative Code, no Certificate of Public Convenience and Necessity shall be issued to a motor transportation company, or shall remain in effect, unless that motor transportation company has filed with the PUCO evidence of insurance at the levels required by law.

4. Affordable Tours and Transportation, d.b.a Urban Express Transportation ("Affordable Tours"), is a motor transportation company with authority to operate under Certificate of Public Convenience, No. 505094, issued by the PUCO on August 9, 2010. At that time, evidence of insurance provided by National Casualty Company (Form E) was on file with the Commission.

5. Staff of the Transportation Department received a cancellation notification (Form K) from National Casualty Company with a cancellation date of July 13, 2011. I am unsure as to what day this notification was received but, generally, such notifications are received 10 or more days before the effective date of the cancellation.

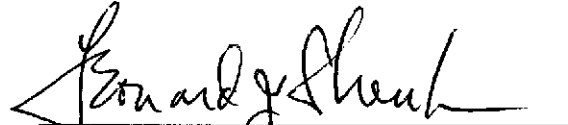
6. On July 13, 2011, staff of the Transportation Department mailed a "Notice of Suspension of Operating Authority" to Affordable Tours by regular mail. The notice stated that Affordable Tours' registration had been suspended and that no further operations may be conducted until the appropriate evidence of insurance is received by the Commission. Pursuant to Rule 4901:2-13-09(A), an identical notice was sent by certified mail on July 20, 2011. According to the United States Postal Service's website, the certified letter was delivered on July 23, 2011.

7. Attached to this Affidavit are true and accurate copies of the documents referenced in paragraph (6) including the "Notice of Suspension of Operating Authority,"


the certified mail envelope, and a printout from the United States Postal Service's website.

8. Affordable Tours' right to operate has been suspended for more than thirty days and it has not filed evidence of insurance with the Commission.

FURTHER, Affiant sayeth naught.


Leonard J. Shenk

SWORN TO AND subscribed before me this 26th day of August, 2011.


Notary Public

WILLIAM L. WRIGHT
ATTORNEY AT LAW
NOTARY PUBLIC-STATE OF OHIO
MY COMMISSION HAS NO EXPIRATION DATE
SECTION 147.03 R. C.

Effective Date: 07/13/11

AFFORDABLE TOURS & TRANSPORTATION INC
URBAN EXPRESS TRANSPORTATION
1640 E 5TH AVE
COLUMBUS, OH 43219

Certificate: 505094

***** NOTICE OF SUSPENSION OF OPERATING AUTHORITY *****

You are hereby notified that AFFORDABLE TOURS & TRANSPORTATION INC, dba: URBAN EXPRESS TRANSPORTATION has failed to file with this Commission renewal or replacement of bodily injury and property damage and/or freight cargo insurance to provide coverage as required by Sections 4921.11 and 4923.08, Ohio Revised Code. In accordance with the provisions of these statutes no further operation may be conducted in intrastate commerce within the borders of Ohio until the appropriate evidence of insurance has been received by the Commission.

The registration issued to the above-named motor transportation company by the Commission is hereby suspended, and no further operation may be conducted until the suspension is rescinded by the Commission.

You are hereby notified that continued operations in violation of Sections 4921.11 and 4923.08, Ohio Revised Code, are misdemeanors of the first degree under Ohio law, Sections 4921.99 and 4923.99, Ohio Revised Code.

By Order of
THE PUBLIC UTILITIES COMMISSION OF OHIO

Administrative Services Division
Transportation Department

Ohio

Public Utilities
Commission

100 East Broad Street
Columbus, OH 43260-3592
614/465-3700
www.puc.state.oh.us



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AFFORDABLE TOURS & TRANSPORTATION INC
URBAN EXPRESS TRANSPORTATION
1640 E 5TH AVE
COLUMBUS, OH 43219

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COLUMBUS, OH 43224

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4921.11 Liability insurance certificate, policy or bond to be filed with commission.

(A) As used in this section, "motor transportation company" has the same meaning as in section 4921.35 of the Revised Code.

(B) No certificate of public convenience and necessity shall be issued by the public utilities commission to any motor transportation company until it has filed with the commission a liability insurance certificate, policy, or bond satisfactory to the commission, in such sum and with such provisions as the commission deems necessary adequately to protect the interests of the public, having due regard for the number of persons and amount of property affected. Such liability insurance certificate, policy, or bond shall insure such company against loss sustained by reason of the death of or injuries to persons and for loss of or damage to property resulting from the negligence of such company.

(C) No such certificate of public convenience and necessity shall be issued to a company until it has filed with the commission a freight cargo insurance certificate, policy, or bond that the commission has determined to be adequate to protect the interests of the shipping public. Such freight cargo insurance certificate, policy, or bond shall insure such company against all loss, in excess of one thousand dollars and within the limits fixed in such certificate, policy, or bond, sustained by reason of any loss or damage to the property being transported.

(D) A certificate, policy, or bond required by this section shall provide that ten days' notice in writing shall be given to the commission of intention to cancel such insurance certificate, policy, or bond. If a certificate, policy, or bond is canceled during its term or lapses for any reason, the commission shall require the company to replace it with another certificate, policy, or bond fully complying with the requirements of this section. In default of such replacement, all operations under the certificate of public convenience and necessity shall cease immediately, and further operations shall not be conducted without the specific approval of the commission, which may be given after the motor transportation company has complied with this section. The commission shall not reinstate a certificate of public convenience and necessity until a satisfactory insurance certificate, policy, or bond has been filed.

(E) To ensure minimum standards of protection of the consumer's household goods, the commission may adopt rules governing requirements for cargo insurance for motor transportation companies engaged, for hire, in the business of transporting household goods over a public highway in this state. As used in this division, "household goods" has the same meaning as in section 4921.35 of the Revised Code.

Effective Date: 09-30-1998

4921.02 Motor transportation company additional definitions.

As used in sections 4921.01 to 4921.32 of the Revised Code:

(A) "Motor transportation company," or "common carrier by motor vehicle," includes every corporation, company, association, joint-stock association, person, firm, or copartnership, and their lessees, legal or personal representatives, trustees, and receivers or trustees appointed by any court, when engaged or proposing to engage in the business of transporting persons or property, or the business of providing or furnishing such transportation service, for hire, whether directly or by lease or other arrangement, for the public in general, in or by motor-propelled vehicles of any kind, including trailers, over any public highway in this state. All laws regulating the business of motor transportation, their context notwithstanding, apply to such motor transportation company or common carrier by motor vehicle. "Motor transportation company," as so used, does not include any person, firm, copartnership, voluntary association, joint-stock association, company, or corporation, wherever organized or incorporated:

- (1) Engaged or proposing to engage as a private motor carrier as defined by section 4923.02 of the Revised Code;
- (2) Insofar as they own, control, operate, or manage motor vehicles used for the transportation of property, operated exclusively within the territorial limits of a municipal corporation, or within such limits and the territorial limits of municipal corporations immediately contiguous to such municipal corporation;
- (3) Insofar as they are engaged in the transportation of persons in taxicabs in the usual taxicab service;
- (4) Engaged in the transportation of pupils in school busses operating to or from school sessions or school events;
- (5) Engaged in the transportation of farm supplies to the farm or farm products from farm to market or to food fabricating plants;
- (6) Engaged in the distribution of newspapers;
- (7) Engaged in the transportation of crude petroleum incidental to gathering from wells and delivery to destination by pipe line;
- (8) Engaged in the transportation of injured, ill, or deceased persons by hearse or ambulance;
- (9) Engaged in the transportation of compost (a combination of manure and sand or shredded bark mulch) or shredded bark mulch;
- (10) Engaged in the transportation of persons in a ridesharing arrangement when any fee charged each person so transported is in such amount as to recover only the person's share of the costs of

operating the motor vehicle for such purpose.

(B) "Trailer" means any vehicle without motive power designed or used for carrying property or persons and for being drawn by a separate motor-propelled vehicle, including any vehicle of the trailer type, whether designed or used for carrying property or persons wholly on its own structure, or so designed or used that a part of its own weight or the weight of its load rests upon and is carried by such motor-propelled vehicle.

(C) "Public highway" means any public street, road, or highway in this state, whether within or without the corporate limits of a municipal corporation.

(D) "Fixed termini" refers to the points between which any motor transportation company usually or ordinarily operates, provides, or proposes to operate or provide motor transportation service.

(E) "Regular route" refers to that portion of the public highway over which any motor transportation company usually or ordinarily operates, provides, or proposes to operate or provide motor transportation service.

(F) "Irregular route" refers to that portion of the public highway over which is conducted or provided any other operation of any motor vehicle by a motor transportation company transporting property.

(G) "Ridesharing arrangement" means the transportation of persons in a motor vehicle where such transportation is incidental to another purpose of a volunteer driver, and includes ridesharing arrangements known as carpools, vanpools, and buspools. Whether or not any motor-propelled vehicle is operated or such transportation service is provided or furnished by such motor transportation company, between fixed termini or over a regular route, or over an irregular route, or whether or not a corporation, company, association, joint-stock association, person, firm, or copartnership, or their lessees, trustees, or receivers or trustees appointed by any court, is engaged as a motor transportation company, are questions of fact. The finding of the public utilities commission on such questions is a final order which may be reviewed as provided in section 4921.17 of the Revised Code. The commission has jurisdiction to receive, hear, and determine such questions upon complaint of any party, or upon its own motion, upon not less than fifteen days' notice of the time and place of such hearing and of the matter to be heard.

Effective Date: 09-01-2000

4901:2-13-01 Who must file insurance.

(A) No motor transportation company, or private motor carrier operating for-hire in the state of Ohio, that is subject to section 4919.77, 4921.11 or 4923.08 of the Revised Code, shall engage in intrastate commerce in Ohio, and no certificate shall be issued to a motor carrier, or remain in effect, unless that motor carrier has filed with and had approved by the public utilities commission of Ohio a certificate of liability insurance or bond, insuring the motor carrier, and shippers employing contract motor carriers, to protect the public against loss sustained by reason of the death of or bodily injuries to persons and for loss of or damage to property (except cargo) resulting from the negligence of that motor carrier. The certificate of insurance shall be amended by the attachment of an insurance endorsement.

(B) Cargo insurance must be filed by all household goods carriers within the state of Ohio. However, bus companies operating within the state of Ohio do not need to file proof of cargo insurance coverage with the commission.

(C) Each citation contained within this chapter that is made to a regulation of the code of federal regulations is intended, and shall serve, to incorporate by reference the particular version of the cited matter that was effective on November 24, 2009.

Effective: 09/27/2010

R.C. 119.032 review dates: 05/14/2014

Promulgated Under: 111.15

Statutory Authority: 4921.11

Rule Amplifies: 4921.04, 4921.11, 4921.39, 4921.40

Prior Effective Dates: 2/1/1975, 8/1/1992, 7/15/1999, 2/20/2010

4901:2-13-09 Reinstatement after insurance revocation.

(A) Motor carriers shall not operate without insurance. Whenever a cargo and/or bodily injury and property damage certificate of insurance or bond is canceled during its term, or lapses for any reason, and is not replaced by another insurance certificate or bond fully complying with the commission's insurance requirement, written notice shall be given to the holder of the certificate. Such notice shall contain a statement that the right to operate under such certificate is suspended and that all operations must cease. The notice shall be forwarded to the involved motor carrier by certified mail.

(B) If the involved motor carrier causes to be filed a satisfactory insurance certificate or bond, the motor carrier shall be given written notice indicating that operations may be resumed on the effective date of the insurance filing.

(C) Whenever a motor carrier's right to operate is suspended under this rule for more than thirty days, and the carrier has not filed evidence of insurance with the commission, the operating authority shall be revoked pursuant to a commission order.

(D) If a motor carrier files replacement insurance coverage that is not retroactive to date of expiration or lapse, the transportation department shall conduct an audit of the carrier to determine if any operations occurred during the period of cancelled or lapsed insurance coverage.

Effective: 02/20/2010

R.C. 119.032 review dates: 11/24/2009 and 05/31/2014

Promulgated Under: 111.15

Statutory Authority: 4921.11

Rule Amplifies: 4921.04, 4921.11, 4921.39, 4921.40

Prior Effective Dates: 2/1/1975, 8/1/1992, 7/15/1999

4901-5-03 Citations.

(A) Citation order – Citations shall be commenced by the issuance of an order requiring the grantee to show cause why his certificate should not be revoked, altered or amended. Such order shall set forth the facts on which the citation is based. The citation order shall require the respondent to file a written answer within fifteen days of the effective date of the order. Such orders shall be served on the respondent by registered or certified mail. Acknowledgement of service shall be obtained in each case.

(B) Answer – The respondent must answer the order to show cause within fifteen days of its effective date. Such answer shall either admit or deny each separate allegation of the order to show cause. The answer shall state what corrections, if any, have been made of the practices complained of in the order to show cause. If an allegation is denied, the answer must set forth the facts upon which such denials are based.

(C) Hearing on citation – If a respondent fails to answer an order to show cause, the commission shall proceed to revoke authority. If an answer is filed by the respondent, the matter shall be promptly assigned for hearing unless the answer of the respondent is deemed to be satisfactory, in which event *the order to show cause may be dismissed.*

Effective: 02/20/2010

R.C. 119.032 review dates: 11/27/2009 and 05/31/2014

Promulgated Under: 111.15

Statutory Authority: 4921.04

Rule Amplifies: 4921.10, 4923.14

Prior Effective Dates: 3/1/1988, 1/2/1993, 8/17/2006