



STATE OF CONNECTICUT
DEPARTMENT OF TRANSPORTATION



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

Phone:

DOCKET NO. 1008-N-77-T

RE: APPLICATION OF GREEN ACCESS, INC. D/B/A GREEN ACCESS TO OPERATE SEVENTY (70) MOTOR VEHICLES IN TAXICAB SERVICE WITHIN AND TO AND FROM AVON, BARKHAMSTED, BERLIN, BLOOMFIELD, BRISTOL, BURLINGTON, CANTON, CROMWELL, EAST GRANBY, EAST HARTFORD, EAST WINDSOR, ELLINGTON, ENFIELD, FARMINGTON, GLASTONBURY, GRANBY, HARTFORD, HARTLAND, MANCHESTER, MIDDLETOWN, NEW BRITAIN, NEW HARTFORD, NEWINGTON, PLAINVILLE, ROCKY HILL, SIMSBURY, SOMERS, SOUTH WINDSOR, SOUTHLINGTON, STAFFORD, SUFFIELD, VERNON, WEST HARTFORD, WETHERSFIELD, WINDSOR, AND WINDSOR LOCKS TO ALL POINTS IN CONNECTICUT.

FINAL DECISION

October 25, 2011

I. INTRODUCTION

A. Applicant's Proposal

By application filed on August 24, 2010 with the Department of Transportation ("Department"), pursuant to Section 13b-97 of the Connecticut General Statutes as amended, Green Access, Inc. d/b/a Green Access (hereinafter "applicant" or "Green Access") of 86 Granby Street, Bloomfield, Connecticut, seeks authorization to operate seventy (70) motor vehicles in taxicab service within and to and from Avon, Barkhamsted, Berlin, Bloomfield, Bristol, Burlington, Canton, Cromwell, East Granby, East Hartford, East Windsor, Ellington, Enfield, Farmington, Glastonbury, Granby, Hartford, Hartland, Manchester, Middletown, New Britain, New Hartford, Newington, Plainville, Rocky Hill, Simsbury, Somers, South Windsor, Southington, Stafford, Suffield, Vernon, West Hartford, Wethersfield, Windsor, and Windsor Locks to all points in Connecticut.

B. Hearing

Pursuant to Section 13b-97(a) of the General Statutes, as amended, a public hearing on this application was held at the administrative offices of the Department in Newington, Connecticut, on January 19 & 20, 2011, February 3, 4, 15, & 18, 2011, March 2 & 23, and April 7, 2011. Briefs were timely filed on September 19, 2011 on which date the record closed.

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 Section 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.

The Commissioner of Transportation designated a hearing officer to conduct the hearing on this matter, pursuant to General Statutes Section 13b-17.

C. Appearances

Green Access, Inc. d/b/a Green Access of 86 Granby Street, Bloomfield, appeared through Marco Henry, its owner, and was represented by Jay Malcynsky, Esq. and Paula Clarke, Esq., whose mailing address is One Liberty Square, New Britain, Connecticut.

East Hartford Cab Company d/b/a Ace Taxi (hereinafter "Ace Taxi"), holder of taxicab certificate 1145, petitioned for and was granted intervenor status in the towns of East Hartford, Manchester, Vernon, South Windsor, Enfield, East Windsor, Windsor Locks, Windsor, Bloomfield, Simsbury, West Hartford, Newington, Wethersfield, Glastonbury, Manchester, Farmington, Granby, Hartford, and Rocky Hill. Ace Taxi's mailing address is 134 East Center Street, Manchester, Connecticut. Ace Taxi Service, Inc. d/b/a Ace Taxi (hereinafter "Ace Taxi"), holder of taxicab certificate number 1066, petitioned for and was

granted intervenor status in the towns of Bloomfield, East Hartford, East Windsor, Ellington, Enfield, Farmington, Granby, Hartford, Manchester, Newington, Rocky Hill, Simsbury, Somers, South Windsor, Stafford, Suffield, Vernon, West Hartford, Wethersfield and, Windsor Locks. Ace Taxi's mailing address is 134 East Center Street, Manchester, Connecticut. Ace Taxi was represented by Gregory Kimmel, Esq. of Kimmel & Kimmel, LLC, Nine Morgan Avenue, Norwalk, Connecticut.

Edward Mcghie d/b/a United Cab Company, holder of taxicab certificate number 1078, petitioned for and was granted intervenor status, without objection, in the towns of Bloomfield, East Hartford, East Windsor, Enfield, Farmington, Granby, Hartford, Manchester, Rocky Hill, Simsbury, South Windsor, Vernon, West Hartford, Wethersfield, , Ellington, Avon, and East Granby. Edward Mcghie's, whose mailing address is 624 Talcottville Road, Vernon, Connecticut, appeared on his company's behalf and was represented by Mathew Forrest, Esq. whose mailing address is 25 Spring Street, Wethersfield, Connecticut.

Suburban Transportation, Inc. d/b/a Valley Cab (hereinafter "Valley Cab"), holder of taxicab certificate number 1144 and whose mailing address is 320 East Street, Plainville, Connecticut, petitioned for and was granted intervenor status, without objection, in the towns of Bloomfield, East Hartford, East Windsor, Enfield, Farmington, Granby, Hartford, Manchester, Newington, Rocky Hill, Simsbury, South Windsor, Vernon, West Hartford, Wethersfield, Windsor, Andover, Bolton, Coventry, Stafford, Union, Barkhamsted, Hartland, Harwinton, New Hartford, Plymouth, and Thomaston. Valley Cab appeared through Shaukut Dode and was represented by Devin B. Dingler, Esq. of Dingler, LLC whose mailing address is 102 Oak Street, Hartford, Connecticut.

Abdelazziz M. Youssef d/b/a Enfield Taxi filed for and received intervenor status. Enfield Taxi's mailing address of record is P.O. Box 3244, Enfield, Connecticut. Enfield Taxi operates under certificate number 1098 and is authorized to one (1) vehicle in Enfield and East Windsor and two (2) in operate within and to and from Bloomfield, East Hartford, Farmington, Granby, Hartford, Manchester, Newington, Rocky Hill, Simsbury, South Windsor, Suffield, Vernon, West Hartford, Wethersfield and Windsor.

David Small/Leann Warmouth d/b/a Americab, holder of taxicab certificate number 1210, whose mailing address is 4 Coslin Road, Enfield, Connecticut, petitioned for and was granted intervenor status, without objection, in the towns of East Windsor, Enfield, Somers, and Suffield. Americab was represented by Deborah Small.

Venniel Clarke d/b/a Beulah Taxi, holder of taxicab certificate number 1101 and whose mailing address is 6 Linwood Drive, Bloomfield, Connecticut, filed for and was granted intervenor status, without objection, in the towns of Bloomfield, East Hartford, East Windsor, Enfield, Farmington, Granby, Hartford, Manchester, Newington, Rocky Hill, Simsbury, South Windsor, Vernon, West Hartford, Wethersfield, and Windsor.

Sheldon Lubin, utilities examiner with the Regulatory and Compliance Unit of the Department, attended the hearings.

D. Administrative Notice

Administrative Notice was taken of the following:

1. Applicant's Exhibits numbers 2, 3 and 4 are not sworn testimony.
2. Suburban Transportation, Inc. d/b/a Valley Cab is authorized to operate two (2) taxicabs within and to and from Southington.
3. Department of Transportation carrier report for:

The Yellow Cab Company d/b/a Yellow Cab, certificate number 1;
Metro Taxi co., Inc., certificate number 1100;
Star Taxi, Inc., certificate number 1102;
East Hartford Cab Company, Inc. d/b/a Ace Taxi, certificate number 1145;
Ace Taxi Service, Inc. d/b/a Ace Taxi, certificate number 1066;
Edward Mcghie d/b/a United Cab Co., certificate number 1078;
Suburban Transportation, Inc. d/b/a Valley Cab, certificate number 1144;
Adbelaziz M. Youssef d/b/a Enfield Taxi, certificate number 1098;
Beulah Taxi Co., certificate number 1101;
David Small/Leann Warmouth d/b/a Americab, certificate number 1210.

4. Re: Application Of ABC D'Lux Taxi, LLC To Operate Four (4) Motor Vehicles In Taxicab Service Within And To And From Bloomfield, East Hartford, East Windsor, Enfield, Farmington, Granby, Hartford, Manchester, Newington, Rocky Hill, Simsbury, South Windsor, Vernon, West Hartford, Wethersfield and Windsor to All Points In Connecticut, Docket Number 1005-N-50-T, Department of Transportation, Final Decision (January 19, 2011.)
5. Re: Application Of David M. Small/Leann Warmouth D.B.A. Americab To Operate Two (2) Motor Vehicles, In Taxicab Service Within And To And From The Town Of Enfield, Somers, Suffield and East Windsor To All Points In Connecticut, Docket No. 1005-N-33-T, Department of Transportation, Final Decision (August 26, 2010.)
6. Stipulated Agreement, Yellow Cab Company v. Connecticut Department of Transportation, et al., HHB-CV-09-5014202-S, Superior court, Judicial District of New Britain at New Britain (May 24, 2010.)
7. Re: application Of Suburban Cab Company, LLC. To Operate Four (4) Motor Vehicles In Taxicab Service Within And To And From Avon, Berlin, Bloomfield, Bristol, Burlington, Canton, Farmington, New Britain, Newington, Plainville,

Plymouth, Simsbury, Southington and West Hartford To all Points In Connecticut, Docket No. 0802-N-38-T, Department of Transportation, Final Decision (January 5, 2010.)

8. Re: In The Matter Of The Citation Of The Yellow Cab Company D.B.A. Yellow Cab, Docket No. 0702-C-41-T, Department of Transportation, Final Decision (August 12, 2009.)
9. Re: Application Of Eveready Cab Company Of Darien, Incorporated D.B.A. Eveready Transportation To Operate Twenty (20) Motor Vehicles Having A Seating Capacity Ten (10) Adults Or Less In General Livery Service Between All Points In Connecticut From A Headquarters In Stamford, Docket No. 0004-N-44-L, Department of Transportation, Final Decision (July 19, 2000.)
10. Re: Application of Yellow Cab Of New London & Groton, Inc. D/B/A Yellow Cab Company To Operate Its Existing Twenty-Seven (27) Motor Vehicles In Taxicab Service Within And To And From Montville To All Points In Connecticut, Docket No. 9405-AS-20-T, Department of Transportation, Final Decision (September 11, 1997.)

II. FINDINGS OF FACT

1. Marco Henry ("Henry") , owner of the applicant, is the owner of The Yellow Cab Company d/b/a Yellow Cab which is authorized to operate ninety-one (91) vehicles within and to and from Bloomfield, East Hartford, East Windsor, Enfield, Farmington, Granby, Hartford, Manchester, Newington, Rocky Hill, Simsbury, South Windsor, Vernon, West Hartford, Wethersfield, Windsor, Windsor Locks, Berlin, and New Britain, within restrictions enumerated in its taxicab certificate number 1. Henry also owns Metro Taxi Co., Inc. d/b/a Yellow Cab, authorized to operate 8 taxicabs within and to and from Windsor Locks, Berlin, and New Britain as well as the same territory as certificate number 1. Henry is also the owner of Star Taxi, Inc. d/b/a Yellow Cab, holder of certificate number 1102, which is authorized to operate 8 taxicabs within and to and from the same territory as certificate 1. Henry operates a total of 107 taxicabs.

2. Ace Taxi is authorized to operate a total of forty-three (43) taxicabs within and to and from Bloomfield, East Hartford, East Windsor Enfield Manchester, Farmington, Granby, Hartford, Manchester, Newington, Rocky Hill, Simsbury, South Windsor, Vernon, West Hartford, Wethersfield, Windsor, Windsor Locks, and Glastonbury as enumerated and specifically authorized in its certificate.

3. Beulah Taxi is authorized to operate one (1) taxicab within and to and from Bloomfield, East Hartford, East Windsor, Enfield, Farmington, Granby, Hartford, Manchester, Newington, Rocky Hill, Simsbury, South Windsor, Vernon, West Hartford, Wethersfield, and Windsor as enumerated and specifically authorized in its certificate.

4. Enfield Taxi is authorized to operate three (3) taxicabs within and to and from Enfield and East Windsor, Bloomfield, East Hartford, Farmington, Granby, Hartford, Manchester, Newington, Rocky Hill, Simsbury, South Windsor, Suffield, Vernon, West Hartford, Wethersfield and Windsor as enumerated and specifically authorized in its certificate.

5. United Cab is authorized to operate eleven (11) taxicabs within and to and from Bloomfield, East Hartford, East Windsor, Enfield, Farmington, Granby, Hartford, Manchester, Newington, Rocky Hill, Simsbury, South Windsor, Vernon, West Hartford, Wethersfield, and Windsor and two (2) of the eleven (11) may be operated in Avon, Canton, East Granby, Ellington, Tolland, Ashford, Eastford, Killingly, Pomfret, Putnam, Thompson, and Woodstock as enumerated and specifically authorized in its certificate.

6. Valley Cab is authorized to operate twenty-five (25) taxicabs within and to and from Bloomfield, East Hartford, East Windsor, Enfield, Farmington, Granby, Hartford, Manchester, Newington, Plainville, Barkhamsted, Avon, New Hartford, Southington, South Windsor, Suffield, Vernon, West Hartford, Wethersfield, and Windsor as enumerated and specifically authorized in its certificate.

7. Connecticut General Statutes Sections 13b-96 through 13b-100 regulate taxicab service and authority in Connecticut.

8. Connecticut General Statutes Sections 13b-96 through 13b-100 do not bar wheelchair accessible vehicles from being used in taxicab service.

9. The Department of Transportation does not bar the use of wheelchair accessible vehicles from being used in taxicab service in the State of Connecticut.

10. Accessible vehicles have been used in taxicab service within the State of Connecticut for several years.

11. There is no statutory requirement which addresses "on demand 24-hour wheelchair accessible" taxicab service.

12. No taxicab service provider is barred from putting accessible vehicles on the road as a taxicab so long as he or she has authority to provide taxicab service and does not exceed the number of vehicles authorized under the provider's taxicab certificate.

13. Stanley Kosloski ("Kosloski") is from Cromwell and served as assistant director of the State Office of Protection and Advocacy for 25 years. He also served as the State Coordinator for the Americans with Disabilities Act in the early 1990s. Currently he serves as the executive director of the Connecticut Disability Advocacy Collaborative. Kosloski has no knowledge of whether the current service meets the needs of the general population of the area of concern. See, Transcript of 1/19/11 at

pages 70-72.

14. Census data and demographics that are used to determine how many of the mobility disabled community in Hartford County or the Greater Hartford area are not dispositive of people who use taxicabs or people who *would use* taxicabs. See, Transcript of 1/19/11 at pages 80-115.

15. Kosloski supports the application for reasons of accessibility for the mobility-disabled community and many of the witnesses join him.

16. Frederick Jortner of Berlin believes that taxi service should be available to the disabled. His son is not in a wheelchair now, but he foresees his son being wheelchair-bound in the future and requiring accessible taxicab service. Transcript of 1/19/11 at pages 123-128.

17. Mary Cammuso of New Britain supports accessible taxicab service. She is able to currently use taxicab services that are currently available, but she uses paratransit transportation because of the cost - paratransit services cost \$2.50 per ride. Transcript of 1/19/11 at pages 130-139.

18. Jade Vail ("Vail") lives in Manchester and she is an advocate of Independence Unlimited, an organization that serves people in 38 towns in the Greater Hartford area. Vail uses paratransit services, and describes it as valuable but not efficient 100% of the time. She has a vehicle and has someone to drive her to her destinations. Transcript of 1/19/11 at pages 150-170.

19. Michael Jennings from Simsbury does not use taxicab service. Transcript of 1/19/11 at page 180.

20. Gary Allen from Bristol is an advocate for Independence Unlimited and supports accessible taxicab service for his clients. He does not use taxicabs to commute to work due to the cost. He has used a taxicab once or twice a month and has had no issues getting a taxicab. Transcript of 1/19/11 at pages 192, 219.

21. Benjamin Parady from Unionville does not use taxicabs often and believes the current services are not adequate because they do not allow him to "do the things that everybody else does that doesn't use a wheelchair." Transcript of 1/19/11 at pages 213-214.

22. D.J. Gonzalez does not use taxicabs. He is the Operations Administrator for the Greater Hartford Transit ("Transit") and works at Union Place. Transit's main job is to oversee the ADA paratransit service for Hartford and surrounding towns. He refers people to taxicabs parked at Union Station and believes the service to be adequate in that area. Transcript of 1/19/11 at pages 234, 257-258.

23. There is a general perception by some of the witnesses that the applicant is the Yellow Cab Company and that it seeks to expand its service with 70 taxicabs.

24. There is no dispute between witnesses, the intervenors and the applicant that witnesses and the intervenors and applicant *support accessible transportation*, including taxicabs. Such witnesses included Keith Mullimar from Rocky Hill, Mark Nolan of Avon, and Nancy Aborn Wuennemann of Glastonbury.

25. Jose Feijoo from Wethersfield, who owns a restaurant in Hartford and has seen people wait for up to an hour for a taxicab, has usually called only one company – Yellow Cab Company. Transcript of 1/20/11 at pages 210 -212, 221.

26. Mary Ann Langton lives in Farmington and drives a vehicle but would use an accessible taxicab two or three times a year. She has had no need for taxicabs except travel in cities outside Connecticut. Transcript of 1/19/11 at pages 275-276.

27. James Quick ("Quick"), who lives in West Hartford, does not use taxicabs, and was not aware that the Marco Henry, the applicant's owner could integrate accessible taxicabs into his existing companies' fleets. Transcript of 1/19/11 at pages 296-298.

28. David Morgana, Jr. ("Morgana") from West Hartford is a member of the Connecticut State Independent Living Council, a board member of Independence Unlimited, vice-president of Development for the Connecticut Chapter of the National Spinal Cord Injury Association and a member of ConnectAbility. Morgana believes that accessible taxis are necessary. He cannot say if there needs to be more taxicabs on the road. In all of his affiliations, Morgana has not had discussions with anyone regarding why existing taxicab companies do not have accessible vehicles in their fleet. Transcript of 1/19/11 at pages 302, 307-308.

29. Brian Capshaw of East Haven drives, but would use taxicab services, if accessible, approximately one time a month. Transcript of 1/19/11 at pages 314-316.

30. Daria Smith ("Smith") from Southington is the executive director for the Connecticut State Independent Living Council ("SILC") which is a planning council that works on the principles and philosophy of independent living. Smith is familiar with the disabled community within the State of Connecticut. In an effort to serve the disabled community, SILC attempts to identify the population in the communities it serves. Transcript of 1/20/11 at page 16.

31. As a person working with a planning council who looks at transportation issues for the disabled community in Connecticut, Smith believes that more accessible transportation is needed, including accessible taxicabs. However, Smith does not know about unmet demand of the disability population in the area of concern. Smith was unaware that her town is serviced by taxicabs. Smith has never contacted any taxicab

companies or the Department of Transportation regarding accessible taxicabs. Transcript of 1/20/11 at pages 81, 40, 44-46, 83-84.

32. Michelle Duprey ("Duprey"), director of the Department of Services for Persons with Disabilities for the City of New Haven, calculated a need for additional taxicabs and based on an estimated number of people using mobility devices in Hartford County as three (3%) percent of the total population of Hartford County which is approximately 857,000. (Duprey's source for the three (3%) percent figure of total population is a California study.) She estimated that sixty (60%) percent of the three (3%) percent would use taxicab transportation four (4) times a year, yielding 61,704 taxicab rides per year. Durey further divided by seventy (70) taxicabs, yielding 881 trips per cab per year making resulting in 2.5 rides a day for each of the 70 proposed taxicabs. Transcript of 1/20/11 at pages 97-98, 122-124. Duprey cannot quantify the demand because "there are no resources for the disability community to demonstrate what the demand would be". Transcript of 1/20/11 at page 135.

33. The Department of Transportation does not create policy, practice or procedure that bars any taxicab company from providing equal access to taxicabs for people with disabilities.

34. There is no bar to Henry placing accessible taxicabs into service with his current fleet.

35. Duprey has not lobbied to have legislation changed to require handicapped-accessible vehicles *in taxicab service*. Transcript of 1/20/11 at page 128.

36. Witnesses testifying at the hearing who represent the disabled community have never approached the subject of enacting legislation requiring the use of accessible vehicles in taxicab service.

37. Metro Taxi ("Metro") in New Haven with which Duprey has had the most experience providing accessible taxicabs did not go through a hearing to put its accessible taxicabs into service. Metro is currently putting another accessible vehicle in service – replacing an existing taxicab. Transcript of 1/20/11 at pages 131-132.

38. There is nothing that would prohibit somebody from putting a wheelchair accessible taxi into service today. Testimony of Michael Sanders ("Sanders"). Transcript of 2/3/11 at page 74-75.

39. As testified to by Sanders, there are not a lot of disability requirements relative to disability transportation services in the General Statutes, or DMV or DOT. Transcript of 2/3/11 at page 84.

40. It is not required to *grow* a fleet to increase the wheelchair accessible vehicles. Transcript of 2/3/11 at pages 87-88. *Emphasis added.*

41. Henry's current fleet of taxicabs for his three companies provide approximately 14 trips per taxicab per shift. Transcript of 2/3/11 at pages 115-120.

42. The Yellow Cab Company and Metro Taxi Co. both d/b/a Yellow Cab and owned by Henry were represented by Henry at a hearing that ended on November 2009 in which Henry opposed an application for several of the towns in which the applicant is now applying for seventy (70) taxicabs.

43. Henry plans to phase the accessible taxicabs into service a few at a time. He may start with five the first month. He will put the vehicles into service to create new business and new demand. Henry plans to put the vehicles on the road as his demand increases. Transcript of 2/15/11 at pages 99-100.

44. Henry believes that putting into service as many vehicles as he applied for will cannibalize the market – that it will affect the existing market. Therefore he will place vehicles into service a few at a time, depending on the demand *created*. Transcript 2/15/11 at P. 103-109. *Emphasis added.*

45. The applicant holds a bank account with a cash balance of \$40,000.

III. DISCUSSION

Connecticut General Statutes Section 13b-95 defines the term "taxicab" as including "any motor vehicle operated upon any street or highway or on call or demand accepting or soliciting passengers indiscriminately for transportation for hire between such points along streets or highways as may be directed by the passenger or passengers being transported, provided nothing in this chapter shall be construed to include, as a taxicab, a motor bus, as defined in section 14-1, or a motor vehicle in livery service when such motor vehicle is hired for a specific trip or trips and is subject to the direction of the person hiring the same."

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 Section 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 Section 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.

Marco Henry ("Henry"), owner of the applicant in this matter, owns The Yellow Cab Company d/b/a Yellow Cab, Metro Taxi Co., Inc. d/b/a Yellow Cab and Star Taxi, Inc. d/b/a Yellow Cab. All three companies are authorized to operate a total of 107 taxicabs within and to and from their enumerated territories. He has been in operation for many years. While the intervenors contend that Henry, as the sole member of the applicant, has violated the Regulations of Connecticut State Agencies, the violations have not been determined by citation and thus, will not be held against him for this hearing. The evidence that may be subject to citation will be referred to the Regulatory and Compliance Unit. The applicant, for purposes of this final decision, is found suitable to operate the proposed service.

As to the number of taxicabs to be operated, the applicant seeks authority for seventy (70) vehicles in the area of concern. In support of the number of vehicles requested, the applicant provided the testimony of several witnesses, including Michelle Duprey and Daria Smith, both advocates for persons with disabilities. They testified about the demographics of the mobility disabled population in Hartford and surrounding areas. The extrapolation of calculations reached by Duprey was based on the calculation of people with disabilities derived from the 2000 Census and California statistics. Ultimately, the witnesses testified that the information provided was speculative.

Henry testified that his taxicabs are operating at full capacity. Henry testified that his taxicabs provide 14 trips per shift, per taxicab. Henry testified that full capacity for him means that every single vehicle is on the road and the response time is 8 to 10 minutes. Henry's definition of full utilization is nebulous and contradictory. He entered into evidence, which were found to be inaccurate. The trip/rides amassed to show the number of trips that his fleet currently provides were purported statistics in computerized detail – from his dispatching computer, not from the prescribed form of trip sheets as required by Regulations of Connecticut State Agencies Section 13b-96-31. The computerized trip information is in complete contradiction to Henry's testimony that his vehicles provide 14 trips per taxicab per shift, which he describes as full capacity. Yet the trips sheets show an average of 21 trips, and they have been proven to be inaccurate and not in compliance. Accordingly, the purported trip sheets are given little weight.

Moreover, in looking at the standard for full utilization of a taxicab as 20 rides per cab per shift, See *Application of Heritage Livery Service, Inc. D.B.A. Heritage Taxi, Docket No. 0811-AV-182-T, Department of Transportation Final Decision (October 27, 2010)*, looking at the evidence in the best light for the applicant and the public, Marco Henry, by his testimony is at full capacity with 14 trips per day with his current fleet – and therefore would be able to accommodate Duprey's estimation of an additional 2.5 rides per taxicab per day with Henry's current fleet. The real issue in this case is the replacement of

vehicles in Henry's current fleet with accessible vehicles, especially, as the evidence shows, since the accessible vehicles can accommodate all people and provide taxicab service to all people.

Michelle Duprey testified that it was inappropriate and discriminatory to ask whether mobility disabled people could afford taxicab transportation. This statement must be discussed. On many occasions, witnesses have been asked if they would take taxicab transportation, rather than other forms of transportation based on the cost. It is not a line of questioning that is uncommon when witnesses testify on this issue. There have been cases wherein witnesses, who never use taxicabs for many reasons, including cost, have appeared at a hearing to support an applicant because of the relationship with the applicant. Upon cross-examination, that information has been elicited from the witness and this particular issue goes to public necessity. The testimony offered by some of the witnesses in this case supports accessible taxicab service where those same witnesses would not take taxicabs due to the cost, directly affecting any public convenience and necessity analysis.

Clearly, there is substantial evidence in the record supporting the conclusion that the current need can be met by the existing companies owned by the applicant's member. It is clear from the record that the driving force of the instant application is the focus on the mobility disabled community and providing services for that segment of the population that is not currently served to capacity because of accessibility issues. About that there is no dispute. Accessible vehicles are not precluded from serving as taxicabs. The record is replete with testimony that there are several taxicabs that are currently wheelchair accessible and in service. The issue comes down to the current taxicab companies' business decision of using accessible vehicles to provide taxicab service, not whether they should be available or if there is a need.

With regard to financial wherewithal, the following information, which is not in the name of the applicant, was submitted:

1.) As of February 16, 2011 cash was reported as follows:

Total =	\$ 153,363.87
Less Personal Accounts:	
Henry Savings =	(65,012.02)
Henry Checking =	<u>(16,505.50)</u>
Net =	<u>\$ 71,846.35</u>

The current cash available in the Yellow Cab Co., Corporation is about \$160,000 (as of the hearing period)

2.) As of March 16, 2011 Green Access, Inc. had \$40,000 in Rockville Bank.

3.) As of January 31, 2011 the available financing was as follows:

- a.) \$100,000 revolving Credit to Yellow Cab for working capital from T. D. Bank.
- b.) \$463,000 term loan to purchase fixed assets etc. limited to 80% of cost.

- c.) Clean Energy Finance, LLC will be providing financing.
- d.) Financing will include the following:
- 1.) Department of Energy: \$13,000 per vehicle x 70 = \$910,000
 - 2.) Clean Energy: \$13,000 per vehicle X 70 = \$910,000
 - 3.) Clean Energy Grant = \$750,000
 - 4.) The fair market value of the vehicles = \$48,000 each and net cost to Green Access, Inc. = \$22,000 per vehicle.
- e.) The loan payments are expected to be about \$521 per month per vehicle.
All of the towns they are seeking authority in have the same meter rates.

4.) The fifteen or more mile tariff is \$2.65 a mile, \$35 an hour waiting time and travel to or from Bradley International Airport will be charged at the going queue line rates.

5.) As of December 31, 2010 Consolidated Combined Balance Sheet of the Yellow Cab Corporation included the following:

Cash =	\$56,108.33
Total Current Assets =	\$1,611,482.19
Net Fixed Assets =	\$395,177.25
Total Other Assets =	\$ 1,861,576.86
Total Assets =	\$4,041,120.66
Current Liabilities =	\$141,093.25
Total Long Term Liabilities =	\$2,847,000.45
Total Equity =	\$1,053,035.04
Total Liabilities and Equity =	\$4,041,128.74
The current ratio is 11.42	

6.) For calendar year 2010 the Consolidated Combined Income Statement for the Yellow Cab corporation included the following items:

Total Income =	\$3,495,944.42
Gross Profit (93%) =	\$3,261,025.73
Operating and Administrative Expenses=	<u>2,989,739.28</u>
Net Ordinary Income =	\$ 271,286.45
Total Other Income (Expense) =	<u>(298,581.51)</u>
Net Loss =	<u>\$ (27,295.06)</u>

Also as part of the Income Statement were the following non cash expenses:

Amortization =	\$ 57,998.00
Depreciation =	<u>\$193,679.00</u>
Total Non Cash Expenses =	<u>\$251,677.00</u>

7.) The annual insurance premium is \$3,500 per vehicle for \$100,000 coverage.

8.) The taxicab meters are \$245 each.

9.) The President of the Yellow Cab Co., Inc. will loan about \$5,000 a month to help Green Access, Inc. initially.

10.) The driver lease arrangement will be either 50/50 or \$500 a week = about \$2,000 a month per cab.

11.) It is estimated it would take a year to put all of the vehicles on the road. It will cost \$1,019,900 for the year or \$85,000 a month. It is estimated that it will cost \$1,214 to equip each vehicle and at about six vehicles that will be about \$7,289 per month.

12.) As these are new cabs with warranties the cost of repairs and maintenance will be minimal.

13.) The estimated annual property tax is \$350 to \$500 per vehicle.

14.) The cost of additional works on the vehicles to make them taxicabs is \$108,500 for the seventy cabs (\$1,550.00 per vehicle).

15.) At six to seven additional cabs per month it will take a year to put seventy cabs in service.

16.) With 70 additional vehicles, eight additional employees will be needed at the headquarters for a cost of \$223,600.

17.) In order to calculate the financial viability of up to seventy vehicles for Metro Access the following computation is being shown:

COMPUTATION OF FINANCIAL VIABILITY FOR THE FIRST SIX MONTHS:

Sources	<u>One vehicle</u>	<u>Seventy vehicles</u>
T.D. Bank Revolving Credit	\$ 100,000	\$100,000
Term Loan	463,000	463,000
2010 Amortization and Depreciation for the first six months:	125,839	125,839
Stockholder's loan for six months	30,000	30,000
Department of Energy Financing	13,000	910,000
Clean Energy Grant	750,000	750,000
Cash available	<u>160,000</u>	<u>160,000</u>
Total Sources	<u>\$1,641,839</u>	<u>\$2,538,839</u>
Uses		
2010 Net Loss (six months)	\$ 13,648	\$ 13,648
Insurance – six months	1,750	122,500
Cost to purchase vehicles	22,000	1,540,000
Property taxes	175	12,250
Loan Payments	3,126	218,820
Additional work on taxicabs	1,550	108,500
Cost of Additional employees	1,597	111,800
Loan Fee	<u>750</u>	<u>750</u>
Total Cost	<u>\$ 44,596</u>	<u>\$2,128,268</u>

In support of financial wherewithal, the applicant provided evidence of a bank account in its name with a cash balance of \$40,000. This account is the only evidence of cash or assets in the name of the applicant. The financial evidence used to support the application is held in the name of The Yellow Cab Company - which are pledged to, and support, Marco Henry's other three taxicab companies. The applicant has not proven that it can place the vehicles into service and sustain the proposed business for six months to a year with \$40,000. The assets and finances must be in the name of the applicant.

The Department of Transportation has historically and consistently required, and Section 13b-96-3(12) of Regulations of Connecticut State Agencies requires, that each company applying for taxicab service to be able to show that it has separate and distinct finances for operation, and for insurance *for the protection of the public*. See RE: Application of Yellow Cab of New London and Groton, Inc. D.B.A. Yellow Cab Company to Operate its Existing Twenty-Seven (27) Motor Vehicles in Taxicab Service Within And To And From Montville To All Points In Connecticut, Docket No.9405-AS-20-T, Department of Transportation, Final Decision (September 11, 1997.) The applicant cannot stand alone based on the financial information provided.

The applicant proposes to use new vehicles, which will be inspected for safety and compliance with minimum safety standards and the applicant proposes to be included in the insurance plan currently utilized by Henry's existing taxicab fleet. Lastly, the record is silent as to the availability of qualified operators. No mention was made as to whether Henry has additional people who were qualified to drive the additional taxicabs for which service is requested.

The evidence in this matter shows that Marco Henry can place accessible vehicles into service with his three existing taxicab companies, and he is encouraged to do so to meet the need for accessible vehicles, not for additional taxicab service, but the need for accessible vehicles for the mobility disabled community.

IV. CONCLUSIONS OF LAW

The evidence of record shows that the applicant is suitable to operate the proposed service. The applicant failed, however to demonstrate by substantial evidence financial wherewithal to operate the proposed service and that the public's convenience and necessity requires the grant of a taxicab or taxicabs in the area of concern as required by Connecticut General Statutes Section 13b-97(a).

V. ORDER

Therefore, based upon the forgoing Findings of Fact and Conclusions of Law, the application of Green Access, Inc. d/b/a Green Access is hereby denied.

Dated at Newington, Connecticut, on this 25th day of October 2011.

CONNECTICUT DEPARTMENT OF TRANSPORTATION



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