

SUMMARY OF RESOLUTION

Authorization to Issue Fixed Route Shuttle Permit to Lenzner Coach Lines/Coach USA (Marshall)

On or about February 23, 2011, Lenzner Coach Lines/Coach USA (Lenzner) filed an application with Port Authority of Allegheny County (Authority) seeking a permit to allow it to operate a private, fixed route shuttle service between certain locations in Marshall Township and Downtown Pittsburgh beginning on March 28, 2011 (Application).

On February 25, 2011, the Authority issued public advertisements in two local newspapers of general circulation and on the Authority's website notifying the public of Application and inviting the public to submit written comments and to attend and testify at a public hearing scheduled to consider Application on March 8, 2011 at 9:30 a.m. (Hearing).

A committee comprised of Authority staff, and being advised by special outside counsel (Committee), was convened to conduct Hearing, which was transcribed by a certified court reporter after all those testifying were sworn in. Lenzner personnel, along with counsel, appeared at Hearing and offered detailed testimony and documentary evidence in support of Application, including general information on Lenzner and its operations and safety programs, proposed fare structure to provide the service, fleet type and maintenance, detailed routing and scheduling information, proposed hours of operation and copies of letters from the Pennsylvania Department of Transportation and Kratsa Properties indicating that Lenzner had permission from the respective property owners to utilize each owner's property located in Marshall Township for park and ride purposes.

Committee then called the Authority's director Service Planning & Scheduling (Service Director) to testify regarding Application. Service Director testified that the proposed service would not interfere with the Authority's transit operations in Marshall Township because the Authority will have no service remaining in the area following the Authority's planned service reductions necessitated by the ongoing Statewide Transportation Funding Crisis. Service Director further testified that the proposed service would not interfere with the Authority's transit operation in Downtown Pittsburgh since the Authority's service reductions would greatly reduce the number of buses in Downtown Pittsburgh.

The president of Local 85 of the Amalgamated Transit Union (Union), along with counsel, attended Hearing and testified in opposition to Application. Several members of the public also appeared to testify, including several who expressed support for Application as a transit alternative following the Authority's planned elimination of its 13K route on March 27, 2011, necessitated by the Statewide Transportation Funding Crisis.

Counsel for Lenzner and counsel for Union were given an opportunity to cross-examine all witnesses who appeared and testified. All parties were given the opportunity to submit documentary evidence. Committee concluded the hearing by advising Lenzner, Union and all those in attendance that Committee would only consider the record made at Hearing in its deliberations and would then make a detailed, written recommendation to the Authority's Board pertaining to granting or denying Application.

Based upon these deliberations and after due consideration, Committee authored an Opinion, attached to the Resolution as Exhibit A, which recommends that the Board grant Application for the reasons stated in the Opinion and otherwise established on the record at Hearing.

This resolution approves Application and authorizes the chief executive officer, assistant general manager Service Planning & Development, and/or assistant general manager Legal & Corporate Services, to issue a permit to Lenzner to operate private, fixed route shuttle service between certain locations in Marshall Township and Downtown Pittsburgh in accordance with the terms and conditions in the Opinion, to distribute copies of this resolution and the Opinion to Lenzner, Union and any other party requesting a copy of same, and to take any and all other actions necessary to carry out the intent and purpose of this resolution.

3/26/11
J. Letwin

RESOLUTION

WHEREAS, on or about February 23, 2011, Lenzner Coach Lines/Coach USA (Lenzner) filed an application with Port Authority of Allegheny County (Authority) seeking a permit to allow it to operate a private, fixed route shuttle service between certain locations in Marshall Township and Downtown Pittsburgh beginning on March 28, 2011 (Application); and

WHEREAS, on February 25, 2011, the Authority issued public advertisements in two local newspapers of general circulation and on the Authority's website notifying the public of Application and inviting the public to submit written comments and to attend and testify at a public hearing scheduled to consider Application on March 8, 2011 at 9:30 a.m. (Hearing); and

WHEREAS, a committee comprised of Authority staff, and being advised by special outside counsel (Committee), was convened to conduct Hearing, which was transcribed by a certified court reporter after all those testifying were sworn in; and

WHEREAS, Committee received detailed testimony and documentary evidence from Lenzner in support of Application, along with testimony from the Authority's director Service Planning & Scheduling, president Local 85 of the Amalgamated Transit Union (Union), Marshall Township officials and several members of the public; and

WHEREAS, both counsel for Lenzner and counsel for Union were given the opportunity to cross-examine all those individuals who testified at Hearing; and

WHEREAS, based solely upon the testimony and documentary evidence received at Hearing, Committee deliberated and duly considered the merits of Application and has rendered a detailed opinion concerning the merits of Application recommending that the applicant be granted a permit for the reasons set forth in the Opinion attached hereto as Exhibit "A" (nine pages) and otherwise memorialized in the record of Hearing; and

WHEREAS, after due consideration and review of the Opinion and in the best interest of the public in light of the Authority's planned March 27, 2011 service reductions necessitated by the ongoing Statewide Transportation Funding Crisis, the Board agrees with and adopts Committee's recommendation to grant Application.

NOW, THEREFORE, BE IT RESOLVED, that Application filed by Lenzner for a permit to provide private, fixed route shuttle service between certain locations in

Marshall Township and Downtown Pittsburgh beginning on March 28, 2011 is hereby approved subject to the conditions set forth in the Opinion attached hereto as Exhibit A.

RESOLVED FURTHER, that the permit granted to Lenzner by this resolution is valid only if the conditions set forth in the attached Opinion are met within 30 days of the date of this resolution.

RESOLVED FURTHER, that the chief executive officer, assistant general manager Service Planning and Development, and/or assistant general manager Legal & Corporate Services, be, and hereby are, directed to distribute copies of this resolution and the Opinion to Lenzner, Union and any other party that may request a copy of same.

RESOLVED FURTHER, that the chief executive officer, assistant general manager Service Planning & Development, and/or assistant general manager Legal & Corporate Services, be, and hereby are, authorized to approve or reject any service modification requests pertaining to the permit being issued to Lenzner based upon the conditions set forth in the Opinion attached hereto as Exhibit A and to take any and all other actions necessary and proper to carry out the purpose and intent of this resolution.

EXHIBIT A

IN RE: APPLICATION OF LENZNER COACH LINES/COACH USA

On or about February 23, 2011, Lenzner Coach Lines/Coach USA (Lenzner) filed an application to Port Authority of Allegheny County (Authority) seeking a permit that would allow it to operate private, fixed route shuttle service between certain locations in Marshall Township and Downtown Pittsburgh beginning on March 28, 2011 (Application).

Authority has jurisdiction over the subject matter of the Application pursuant to Section 13.1 of the Second Class County Port Authority Act of April 6, 1956, P.L. (1955) 1414, as amended, 55 P.S. §563.1, and the decision of the Supreme Court of Pennsylvania in *Port Authority of Allegheny County v. Pennsylvania Public Utility Commission*, 494 Pa. 250, 431 A.2d 243 (1981), in that the service is fixed route shuttle service to be rendered between points in Allegheny County and is neither school bus, taxicab service or any other service which Authority does not currently exercise exclusive jurisdiction and control over.

On February 25, 2011, Authority issued public advertisements in the *Pittsburgh Post-Gazette*, the *Pittsburgh Tribune-Review* and on Authority's website notifying the public of the Application and inviting the public to submit written comments and to attend and testify at a public hearing to consider the Application on March 8, 2011 at 9:30 a.m. in the Board Room at Authority's offices in the Heinz 57 Center (Hearing). A committee comprised of Authority staff (Committee) and being advised by special outside counsel was convened to conduct the Hearing, which was transcribed by a certified court reporter after all those testifying were sworn in. The Committee was chaired by Michael J. Cetra, Authority's Assistant General Manager of Legal and Corporate Services and General Counsel. Other Committee members included Cathy Singleton, Assistant Manager of Data and Passenger Amenities; Beverly Parker, Information Administrator; Darcy Cleaver, Supervisor of Data and Passenger Amenities; and Richard Wojnar, Director of Road Operations and Training. Sandy Garfinkel, from the law firm of Eckert Seamans Cherin & Mellott, LLC, served as special outside counsel to the Committee.

The Hearing was conducted in accordance with the applicable provisions of Chapter 5 of the Pennsylvania Administrative Code relating to hearing practice and procedure before Commonwealth agencies, 2 Pa. C.S.A. § 501, et seq. Before calling individuals to testify and submit documentary evidence, the Committee introduced five Committee (5) exhibits into the record as follows: (1) Lenzner's permit application letter dated February 23, 2011; (2) Authority's advertisements providing public notice of the Hearing and inviting written comments and live testimony; (3) Lenzner's \$1,200 check paying Authority's permit application fee; (4) Lenzner's Certificate of Liability Insurance as reviewed and approved by Authority's Insurance Administrator; and (5) copies of all seven letters received in response to Lenzner's Application. Mr. Fred Wilkinson submitted an undated letter indicating that he could not attend the Hearing but wanting to express his support for Lenzner's Application as the service would enable Mr. Wilkinson to visit his family. All other letter authors testified at the Hearing, and their respective comments are therefore summarized below in the order that each testified.

The Committee then requested that those individuals appearing at the Hearing on behalf of Lenzner identify themselves. Paul Guarnieri, from the law firm of Malone Middleman, identified himself as Lenzner's counsel. Mr. Guarnieri then identified Charles Lenzner, President and General Manager of Lenzner, and Roy Hoffman, Division Manager for Lenzner's Shuttle Division, as appearing to testify and offer documentary evidence in support of Lenzner's Application. Lenzner provided a binder of information, which was marked as Lenzner Exhibit "A" and a supplemental packet of information marked as Lenzner Exhibit "B" for the Committee's reference during Mr. Lenzner's testimony.

Mr. Lenzner offered detailed testimony, including references and acknowledgments of the accuracy of information contained in Exhibits A and B, in support of Lenzner's Application. This testimony included general information on Lenzner and its operations, training and safety programs, Lenzner's fleet type and maintenance program, proposed fare structure to provide the proposed fixed route service,

proposed hours of operation, detailed routing and scheduling information and copies of letters from the Pennsylvania Department of Transportation (PennDOT) and Kratsa Properties indicating that Lenzner had permission from the respective property owners to utilize each owner's property located in Marshall Township for park and ride purposes for the proposed services.

Lenzner Coach Lines is a corporation with its principal place of business and vehicle maintenance facility located at 110 Lenzner Court, Sewickley, PA. 15143. Lenzner has been in business for approximately 40 years, providing a wide variety of tours and fixed route shuttle services in Allegheny County through other operating permits that it has been previously issued by the Authority. Lenzner has approximately 120 full-time employees, including drivers, maintenance and office personnel.

Lenzner Coach Lines' parent company is Coach USA. Coach USA submitted a letter signed by its President and Chief Operating Officer, contained in Exhibit A, indicating that Lenzner has its parent company's full authority and support to provide fixed route shuttle service on any and all routes being eliminated by Authority as a result of the ongoing Statewide Transportation Funding Crisis.

Lenzner entered revised fare, schedule and routing information into evidence, as contained in Exhibit B of Lenzner's documentary submittals. Lenzner will sell monthly passes, via passenger reservations, Monday through Friday from 9:00 a.m. through 4 p.m. in the order in which reservations are made/sold. Warrendale monthly reservations will be based upon a \$10.00 round trip fare per day. A one-way reservation will be based upon a \$5.00 per day fare. Bladerunners (Warrendale/Cranberry) monthly reservations will be based upon an \$11.50 per round trip fare per day (including a fee for the Warrendale Park and Ride lot). A one-way reservation will be based upon a \$6.25 per day fare (including a fee for the Bladerunners Park and Ride lot). Passengers will board and identify themselves to the driver via a ticket and/or photo identification so drivers can track daily ridership numbers.

Traveling inbound, all buses will begin service at the Bladerunners Park and Ride lot. Buses will leave this lot located on Marshall Drive, turn onto Commonwealth Drive and then follow Thorn Hill Road. The buses will then travel on Route 19 (Perry Highway) South to Warrendale-Bayne Road and stop for passenger pick up at the Warrendale Park and Ride lot. After looping through the lot, buses will access I-79 via Warrendale-Bayne Road to I-279 South towards Downtown Pittsburgh, via the North Shore to the Fort Duquesne Bridge. In Downtown Pittsburgh, the route will follow Stanwix Street to Penn Avenue, stopping to discharge passengers between 6th Street and 7th Street.

Traveling outbound, Lenzner's buses will cross the 9th Street Bridge to I-279. The buses will then continue on I-279 North to I-79, exiting at Marshall and discharging passengers at the Warrendale Park and Ride lot before following Brush Creek Road north to Marshall Drive and the second and final discharge point for passengers at the Bladerunners Park and Ride lot. Lenzner does not intend to have any layovers for buses in the course of operating its proposed fixed route shuttle service.

Proposed scheduling for Lenzner's service would be as follows, Monday through Friday with no weekend service:

<i>Bladerunner's Pick Up</i>	<i>Warrendale Pick Up</i>	<i>Penn and 5th Departure</i>	<i>Penn and 6th Departure</i>
5:30 a.m.	5:40 a.m.	3:45 p.m.	3:48 p.m.
6:00 a.m.	6:10 a.m.	4:15 p.m.	4:18 p.m.
6:30 a.m.	6:40 a.m.	4:45 p.m.	4:48 p.m.
7:00 a.m.	7:10 a.m.	5:30 p.m.	5:33 p.m.
7:30 a.m.	7:40 a.m.	6:00 p.m.	6:03 p.m.

Lenzner also submitted letters, contained in Exhibit B, from both PennDOT and Kratsa Properties indicating that Lenzner has each property owner's permission to utilize the Warrendale Bayne Road Park and Ride lot and Bladerunners/Marshall Ice Associates' Park and Ride lot, respectively, for the purposes of passenger parking and pick up for the proposed Lenzner service.

Lenzner personnel also testified and offered detailed documents into evidence detailing its hiring and training of employees, proposed fleet for the service, maintenance program and other evidence deemed relevant by the Committee for consideration of the merits of Lenzner's Application. Lenzner recruits employees via the newspaper, its website and interested walk-ins, and requires all prospective employees to undergo a criminal background check and drug testing. Mr. Lenzner confirmed that pages 16-23 of the binder submitted by Lenzner, as Exhibit A of the record, contained additional information regarding Lenzner's recruitment, hiring and training of drivers and supervisory employees.

Mr. Lenzner also testified that Lenzner has two (2) personnel on hand at all times who monitor safety, both on the roads and through continuous safety training every six months with Lenzner's employees. This training includes safe speeds for driving, wheelchair lift training and the utilization of Web cams installed on all of Lenzner's bus fleet. Mr. Lenzner also confirmed that pages 25 through 26 of the binder submitted as Exhibit A contained further information about Lenzner's safety program, including the program's structure and safety and health components.

Regarding its maintenance program, Mr. Lenzner testified that Lenzner has a certified inspection station at its 110 Lenzner Court location. Each Lenzner bus is inspected yearly by one of Lenzner's five licensed vehicle inspectors. Regular service and maintenance are performed on vehicles about every 2,500 to 3,000 miles. Additionally, Mr. Lenzner confirmed that pages 27 through 34 of the binder submitted by Lenzner as Exhibit A contained more detailed information pertaining the Lenzner's maintenance program for its vehicles, including its preventative maintenance program, air condition and heating system maintenance and upkeep and record keeping and scheduling.

Mr. Lenzner testified that Lenzner has a random drug and alcohol testing program in place. All Lenzner employees are drug tested and undergo physical exams before being hired as part of Lenzner's overall safety program. Concentra is Lenzner's contactor for conducting its pre-hire and post-hire drug and alcohol testing, and Mr. Lenzner confirmed that Lenzner's drug and alcohol program is conducted in compliance with all federal and state laws.

Lenzner proposes to use a variety of its vehicle fleet to provide the proposed Marshall Township/Downtown Pittsburgh Service, including its Van Hool Bus, the MCI and smaller Chevy or Ford shuttles, if needed. The largest buses have seating capacity for 57 passengers, and all are wheelchair accessible and have priority seating for securing wheelchairs. Lenzner allows service animals onboard its buses, and all Lenzner employees receive new hire and ongoing Americans with Disabilities Act training.

Lenzner drivers are required to wear white shirts with ties (or a sweater, depending on the weather) and all employees have to wear identification badges that are visible to the public. Mr. Lenzner confirmed that page 12 of the binder marked as Exhibit A and submitted by Lenzner contained a sample photograph of the Lenzner identification badge for its drivers.

Mr. Lenzner also testified that Lenzner already holds multiple fixed route shuttle permits issued to it by the Authority, including for University of Pittsburgh and Robert Morris University student shuttles. Lenzner's most recently issued permit allows it to provide fixed route shuttle services between the Rivers Casino and various Downtown Pittsburgh hotels. Mr. Lenzner confirmed that none of his permits have ever been terminated or suspended by the Authority for breach of any operating permit conditions.

Mr. Lenzner testified about several other matters relevant to the merits of Lenzner's Application, including the following:

- Lenzner operates its customer service hotline 24 hours a day, 7 days a week to respond to customer complaints and questions. Complaints are responded to by Tim Zapparo (Manager of Scheduled Route Service) and Mike Ferianc (Head of Safety).
- Lenzner adjusted its schedule for the proposed service and projected ridership based upon surveys passed out by community members, with approximately 140 signatures collected and indicating times passengers would want to be picked up. Mr. Lenzner

noted the survey information was contained in the supplemental information submitted by Lenzner and marked as Exhibit B.

- If demand is higher than anticipated, Lenzner has enough of a fleet capacity to respond to same. If demand is lower than anticipated and/or Lenzner opts to discontinue to service, Lenzner would provide the public with thirty (30) days notice and refund any remaining value on tickets or passes sold.
- Mr. Lenzner understands that any permit issued by the Authority would be limited to its jurisdictional area within Allegheny County, and that the PUC would have to issue an operating permit for any proposed service outside of Allegheny County.
- Lenzner presented a current copy of its Certificate of Liability Insurance, which was entered into the record as Committee Exhibit 4, and acknowledged that if Lenzner's permit were granted, Lenzner would be required to maintain this insurance and ensure that Authority was a named additional insured.
- Mr. Lenzner confirmed that Lenzner had paid its \$1,200 application fee and that it understood and would pay the yearly permit fee of \$3,000, if its Application is granted.
- Mr. Lenzner acknowledged Lenzner's obligation to execute an affidavit binding it to Authority's conditions for issuing an operating permit.
- Mr. Lenzner acknowledged that Authority, in accordance with its statutory powers, could suspend or revoke his operating permit at any time and for any reason, including if the proposed service would interfere with Authority's operations.
- Mr. Lenzner also testified that he understood that Lenzner would be obligated to indemnify, defend and hold Authority harmless if Authority issued Lenzner an operating permit.

Last, upon direct questioning by the Committee, Mr. Lenzner stated the following:

- Authority did not request that Lenzner provide the fixed route service it proposes to provide in its Application.
- Lenzner is not providing the service on behalf or for the benefit of the Authority.
- Lenzner is not party to a contract or any other type of agreement with Authority to provide any type of transit services for Authority's benefit.
- Lenzner is not receiving, and will not receive, any sort of payment from Authority for providing the proposed Marshall Township/Downtown Pittsburgh service.
- Lenzner will be entering into its own leases with PennDOT and Kratsa Properties for the park and ride lots that it proposes to use for the service.

After Mr. Lenzner was directly questioned by the Committee, Lenzner's counsel (Paul Guarnieri) was given the opportunity to directly examine him. In response to counsel's questions, Mr. Lenzner indicated that the park and ride lot information was obtained directly from the property owners and that the passenger survey and ridership information was obtained directly from passengers "who called up and said, we need transportation." Mr. Lenzner also pointed out a route map contained in the binder submitted by Lenzner as Exhibit B.

Counsel for the Union, Joseph Pass, then was given the opportunity to cross-examine Mr. Lenzner. In response to Mr. Pass' cross-examination, Mr. Lenzner testified as follows:

- Mr. Lenzner never had any discussion with the Authority about the routes being eliminated, the number of passengers or routing of said routes. Mr. Lenzner noted that the information is available publicly.
- Mr. Lenzner does not currently intend to offer a discount to senior citizens or disabled riders.
- Mr. Lenzner testified that the survey information was collected by passengers on a form that Lenzner developed to gauge interest in a private, fixed route shuttle service.

- Lenzner's employees receive a "comparable wage" and have a 401(K), hospitalization and vacation time. Driver wages range from \$12.50 to \$18.00 per hour, and mechanics are paid from \$18.00 to \$22.00 per hour. Lenzner's employees are not unionized.
- Lenzner intends to hire two (2) additional administrators, one (1) additional mechanic and four (4) to six (6) additional drivers if its Application is granted. Lenzner intends to pay these new hires consistent with its current wage and benefits package it currently has in place.
- Mr. Lenzner confirmed that his proposed fares will be 50% higher than the Authority charges on its buses, but that Lenzner's fares were separate and apart from the Authority's and represented Lenzner's "cost to do business."
- Mr. Lenzner confirmed that Lenzner's proposed service was not going to be subsidized by the government in any manner.
- Mr. Pass also asked some questions pertaining to other entities that Mr. Lenzner is purportedly associated with and some questions about Lenzner's other permits. One line of questioning was objected to as irrelevant and sustained by the Committee.

Mr. Guarnieri then briefly conducted re-direct of Mr. Lenzner, and Mr. Pass briefly conducted re-cross examination of Mr. Lenzner. Upon questioning by Committee member, Ms. Cleaver, Lenzner indicated that an asterisk next to one of the schedule times was a typographical error and that the Warrendale Park and Ride lot would be open for use by the general public (not just Lenzner customers). Mr. Lenzner's testimony then concluded, and Mr. Guarnieri moved for the admission of Lenzner Exhibits A (the binder) and B (the supplemental Lenzner information). Both Exhibits were admitted in the record by the Committee.

The Committee then called Scott Vetere, Authority's Director of Service Planning & Scheduling, to testify. Mr. Vetere testified as follows:

- In his capacity as Director of Service Planning & Scheduling, he has direct knowledge about the route and services offered by the Authority to the public, both currently and those that will be offered after the service reductions scheduled to take effect on March 27, 2011, due to the ongoing Statewide Transportation Funding Crisis.
- Upon hearing Mr. Lenzner's testimony regarding his proposed service, Mr. Vetere stated that it would not interfere with Authority's operations. It would not interfere with Authority's operations in Marshall Township because Authority will have no bus operations in Marshall Township after March 27. It will not interfere with Authority's operations in Downtown Pittsburgh because Authority will be reducing the number of buses that it has Downtown in a much greater number than the number of buses Mr. Lenzner's service would propose to bring into Downtown.
- In Mr. Vetere's opinion, the proposed service would be a benefit to the public because "it will be taking over an area we [the Authority] are vacating."

Following Mr. Vetere's testimony, Shannon Beisel of Mars, testified in support of Lenzner's Application. Ms. Beisel made clear that her first preference was for Authority to continue to provide bus service in the Marshall Township area, but if the service was being eliminated, then she would support a private carrier like Lenzner providing an alternative service because "one way or another, we still need public transit in Cranberry."

Next, Patrick McMahon, President and Business Agent of the Union, testified that the Union "strongly objects to allow[ing] Lenzner to deliver the fixed route service in the Cranberry, Marshall area." Mr. McMahon testified that the Union believes any private carrier taking over these routes would have to comply with section 13(c) of the Federal Transit Act and honor Authority's collective bargaining agreement terms and conditions with its own employees as a "successor" to Authority. Upon cross-examination by Mr. Guarnieri, Mr. McMahon acknowledged that Lenzner employs some retired Authority drivers and that he was unaware of Lenzner receiving any government subsidies to provide the proposed

service. Mr. McMahon also stated that he did not agree that someone else should provide the service if Authority is not going to. Mr. Pass read section 13(c)'s definition of "successor" into the record.

Following Mr. McMahon's testimony, several members of the public testified as follows:

- James D. Love, of McKees Rocks, testified in opposition to Lenzner's Application and urged the Authority to retain its current service and to not break the Union or move towards privatization.
- Neil McFadden, Township Manager for Marshall Township, testified that Marshall Township's only concern is "ensuring that a viable service option remains available to our commuting public." Nicole Zimsky, Marshall Township's Planning Director, opted not to testify.
- Bonnie Bock, of Wexford, testified in support of Lenzner's Application as a transportation alternative following the Authority March 27 service reductions. Ms. Bock noted that she is willing to pay more for transit services and would be willing to pay more to Authority if it continued its service. She also noted that she is "not against any unions [,]" but supports Lenzner's Application because Authority "is completely taking away almost all [transit] options [post-March 27]."
- Marian Engel next testified and stated at the "suggestion of the Union [,]" she contacted various government representatives about the planned service reductions and was advised that "[t]here's no money." Ms. Engel then heard that Mr. Lenzner was potentially interested in operating a private service, and she collected the signatures and rider information submitted in Lenzner's Exhibit B. She noted that she had the original survey information in her possession. Ms. Engel noted that she did this as an interested rider and thinks Mr. Lenzner is "doing it for the people because we've called and we've asked him."
- The last registered individual to testify was John Tague who indicated that he was testifying on behalf of the Committee for Accessible Transportation (CAT). Mr. Tague stated that he had "nothing personal against Lenzner [,]" but was concerned that this was "the beginning of the end; in other words, now all of a sudden privatization." Mr. Tague also expressed concerns that Lenzner ensure that it provide buses that are truly accessible to persons in wheelchairs and with other disabilities, and that Lenzner consider providing a fare structure with a discount for seniors and persons with disabilities. Similar to several other persons who testified, Mr. Tague confirmed that his preference would be for the Authority to retain its current services.

Although not registered to testify, two individuals requested that the Committee allow them to testify in regards to Lenzner's Application. In order to make a complete record and obtain as much public input as possible, the Committee granted both requests. These individuals testified as follows:

- Jonathan Robison, President of the Allegheny County Transit Council (ACTC), noted that ACTC did not yet have an "up or down position" on Lenzner's Application. Mr. Robison expressed concerns that the Lenzner service would be less than the Authority's current service and more expensive, and that he disagreed with a recent statement made to the effect that the Authority is "bloated and inefficient." Mr. Robison urged everyone "to work together, put aside our very real serious differences, and work together on getting the funding."
- John Weinhold, of Beechview, expressed his concerns that the Lenzner Application (if granted) would lead the region towards privatization of transit services, which would mean "higher fares and less service."

Both Mr. Guarnieri and Mr. Pass were given the opportunity to cross-examine all of the above-referenced witnesses who testified at the conclusion of each individual's direct testimony.

Following Mr. Weinhold's testimony, the Committee chairman advised those in attendance that the Committee would deliberate based upon the record before it (and the cross-functional Committee's personal knowledge and experience) and make a detailed, written recommendation to Authority's Board (Board). The Board would then make a final decision to approve or deny Lenzner's Application at its regularly scheduled public meeting on March 25, 2011. The Committee chairman urged those interested in speaking directly to the Board about this matter to register to do so.

Based upon the record presented to it, as set forth more fully above and contained in the Hearing transcript, and the Committee's due consideration and deliberations, the Committee unanimously recommends that Lenzner's Application be granted to provide Marshall Township/Downtown Pittsburgh fixed route shuttle service because Lenzner produced sufficient evidence to support the merits of its Application and because it is clear that the good of the public will be served by allowing Lenzner to operate this service in an area where Authority will no longer be providing transit service post-March 27, 2011. This permit may not be transferred and does not confer any exclusive right to render service. Additionally the permit will not be valid until Lenzner signifies that it will comply with the following terms and conditions for operation, in a form approved by Authority:

1. No service shall be provided to any other entity or on any route or in any manner other than that authorized herein without the prior approval of the Chief Executive Officer, Assistant General Manager of Service Planning and Development or Assistant General Manager of Legal and Corporate Services of Authority. The foregoing Authority officers are hereby authorized and fully empowered to permit Lenzner to provide additional fixed route shuttle service, including service for other entities, if such additional service would not interfere with Authority's ongoing, planned or future public transit services in the Marshall Township and/or Downtown Pittsburgh areas. In the event that a request to provide such additional service is denied, Lenzner may request a hearing pursuant to Authority's customary practice and procedure. No right, power or privilege is or shall be granted under this permit beyond the right to provide fixed route shuttle service as set forth in this Opinion.
2. All vehicles used in this service by Lenzner shall bear valid Pennsylvania inspection stickers and shall at all times comply with the Pennsylvania Motor Vehicle Inspection Program as established by the Vehicle Code, Act of 1976, June 17, P.L. 162, No. 81, Sec. 1, 75 Pa. C.S.A. 101, *et seq.*, and those regulations promulgated pursuant thereto. Before commencing service under this permit, Lenzner shall provide an executed Affidavit to the Authority stating that all vehicles used in the service meet the vehicle inspection requirements as stated above.
3. All drivers providing service under this permit shall have in their possession a valid Pennsylvania Motor Vehicle Operators' License for the type of vehicle operated. Furthermore, before commencing service under this permit, Lenzner shall provide an Affidavit or other written agreement acceptable to Authority stating that all of the drivers utilized in the service meet the requirements for operators of motor vehicles in Pennsylvania established by the Vehicle Code, Act of 1976, June 17, P.L. 162, No. 81, Sec. 1, 75 Pa. C.S.A. 101, *et seq.*, and those regulations promulgated pursuant thereto.
4. Before commencing service under this permit, Lenzner shall, in a form acceptable to Authority, signify that it will defend any and all suits brought against Authority and/or its members, officers and employees by anyone, including, but not limited to, Lenzner employees, unions representing Authority's employees or Authority employees, for injuries, including death, loss, damage or costs, including attorneys' fees, alleged to be caused by, through or in connection with the issuance, existence, exercise and/or use of the rights authorized by Authority granting this fixed route shuttle permit, and shall defend and hold harmless, Authority and its members, officers and employees from and against any and all claims, suits, demands and costs, including attorneys'

fees, including, but not limited to, those made by Lenzner employees, unions representing Authority's employees or Authority employees, arising out of, or relating to, the use of the rights authorized by Authority; and to pay, liquidate and discharge any and all valid claims, demands, or judgments (including all costs of suits and reasonable attorneys' fees, if required) including those made by Lenzner employees, unions representing Authority's employees or Authority employees, for injury, loss or damage, including consequential damages, punitive or treble damages, to any and all persons, or property caused by, growing out of, or incidental to the existence, use or exercise of the rights authorized by Authority granting this fixed route shuttle permit to Lenzner. This requirement to indemnify, defend and hold Authority harmless shall extend to any and all claims of any and all nature or manner, including, but not limited to, any alleged claims by any union representing Authority's employees or Authority employees that Lenzner's permit or operations commenced thereunder violate section 13(c) of the Federal Transit Act or any other federal law, statute or regulation.

5. For the period authorized and the entire time Lenzner maintains its permit, Lenzner shall maintain workers' compensation insurance in accordance with the laws of the Commonwealth of Pennsylvania and Comprehensive General Liability Insurance, including contractual liability, in an amount not less than \$1,000,000 per occurrence for bodily injury and property damage combined; and Business Automobile Liability Insurance in an amount not less than \$1,000,000 per accident for service provided in vehicles with 28 passenger seats or less and not less than \$5,000,000 per accident for service provided in vehicles with 29 passenger seats or more, for bodily injury and property damage combined. Authority shall be named as an additional insured on any such additional coverage. Prior to initiating service under this permit, Lenzner shall submit current certificates of such insurance to Authority. Said insurance shall provide that Authority shall receive thirty (30) days' prior written notice in the event of change or cancellation of any of the insurance required herein.
6. Except as otherwise provided herein, this permit shall be valid from one year of the date of issue, March 25, 2011, and may not be transferred. It shall be the responsibility of Lenzner to confirm its intent to maintain this permit annually, at least thirty (30) days prior to the expiration date of the permit. It shall be within the Authority's sole option and discretion to renew the permit. At that time, Lenzner shall provide Authority with those Affidavits, agreements and/or certificates described above and pay a non-refundable \$3,000 permitting fee.
7. Lenzner acknowledges that this fixed route shuttle permit can be revoked, in whole or in part, by Authority, at any time and for any reason at Authority's sole discretion, including (but not limited to) order of court, operation of law or Authority's conclusion that Lenzner's fixed route service is interfering with Authority's ongoing or planned operations. If Lenzner is advised of such revocation, Lenzner shall immediately cease operations and Authority will refund a pro-rata portion of Lenzner's permit fee paid at the time of revocation. In the event of a revocation at Authority's discretion, Lenzner may request a hearing before Authority personnel to appeal said revocation.
8. Upon request by Authority, Lenzner shall make available for inspection and/or auditing any and all operational, safety, maintenance or other records pertaining to its provision of fixed route shuttle services under the permit. All such records shall be maintained by Lenzner for a minimum of three (3) years. Additionally, on a monthly basis, Lenzner shall submit monthly ridership information for the fixed route service Lenzner provides pursuant to the permit to Authority's Information Administrator or other designee.

9. Lenzner shall operate in accordance with the provisions of this decision at all times. Authority assumes no responsibility or liability to anyone for the failure of Lenzner to comply with said provisions.
10. In the event Lenzner is alleged to be in violation of the provisions of this Opinion or the issued fixed route shuttle permit, Lenzner will be notified of the charge and a hearing will be scheduled. If it is determined that Lenzner has committed a violation, penalties will be assessed. Such penalties may include the revocation of this permit.
11. The rights granted by this permit shall be non-exclusive. Authority may issue permits for the same service and the same geographic area to other interested carriers.
12. Lenzner shall comply with all conditions set forth in this Opinion within thirty (30) days of the date of the Resolution accompanying this Opinion. The failure of Lenzner to fully comply within thirty (30) days shall result in any authority granted by the permit to be null and void, at the sole discretion of the Authority's Chief Executive Officer in consultation with the Assistant General Manager of Service Planning and Development and Assistant General Manager of Legal and Corporate Services.
13. Any employee or agent of Lenzner providing or overseeing the fixed route shuttle service under this permit is not and shall not be considered an employee, agent, contractor, sub-contractor, successor or assign of Authority. Lenzner shall not be considered an agent, contractor, sub-contractor, successor and/or assign of Authority. Rather, Lenzner shall be considered the holder of a non-exclusive operating permit issued in accordance with the regulatory powers afforded to the Authority pursuant to the Second Class County Port Authority Act, as amended.