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15 dba Community Ambulance

16 **IN THE OFFICE OF ADMINSTRATIVE HEARINGS**

17 In the Matter of:

18 RBR Management, LLC dba Community
19 Ambulance,

20 Applicant.

Docket No. 2017-EMS-0104-DHS
(EMS No. 0283)

**APPLICANT'S
OPPOSITION TO
MARICOPA AMBULANCE'S
MOTION TO QUASH**

(Assigned to the Honorable
Tammy L. Eigenheer)

21 Applicant RBR Management LLC, dba Community Ambulance
22 ("Applicant" or "Community Ambulance"), hereby opposes Intervenor Maricopa
23 Ambulance LLC's ("MA") Motion to Quash In Part Subpoena Duces Tecum to
24 Maricopa Ambulance ("Motion"). For the reasons set forth in the following
25 memorandum of points and authorities, Applicant respectfully requests the

1 Administrative Law Judge (“ALJ”) deny the Motion and compel the production of
2 documents responsive to the subpoena *duces tecum* (the “Subpoena”) issued to
3 MA. This opposition is supported by a comprehensive response chart (“Chart”),
4 attached at Exhibit (“Ex”) 1, and incorporated herein by this reference, that
5 identifies (1) the Community Ambulance request; (2) MA’s objections to that
6 request, and (3) Community Ambulance’s substantive response to MA’s
7 objections.

8 **MEMORANDUM OF POINTS AND AUTHORITIES**

9 **1. Introduction**

10 Community Ambulance’s Subpoena is not intended to unnecessarily
11 expand these proceedings, but rather take its only opportunity to obtain relevant
12 documents reasonably related to the factors the ALJ and Director will consider
13 in evaluating Community Ambulance’s Application for Certificate of Necessity
14 (“CON”) to provide interfacility and convalescent transports. As Community
15 Ambulance demonstrates through the Chart at Ex. 1, the remaining requests in
16 the Subpoena seek documents and information squarely in MA’s possession
17 custody and control that are relevant and reasonably related to the public
18 necessity factors the ALJ and Director will consider in rendering a reasoned and
19 informed factual finding in this matter. *See e.g.* A.A.C. R9-25-903(B). To be sure,
20 the documents sought are intended to examine and challenge MA’s own
21 contentions that awarding Applicant an interfacility CON aimed at transports
22 for Dignity Health’s patients in Maricopa County will have a negative financial
23 impact on MA or that there is no need for an additional interfacility transport
24 provider in Maricopa County.

25 Of course, during its own CON hearing, MA caused very similar subpoenas
26 to issue to intervenors so that MA too could obtain information that was relevant
27 and reasonably related to the public necessity factors (and other factors) in the
28 possession, custody, and control of the intervenors. Now that it has its CON,

1 however, MA takes a novel approach that whatever documents MA has put into
2 the public record to support its own application and recent renewal of its CON
3 are the *only* documents Applicant needs or is entitled to obtain.¹ Anything more
4 than that, MA seems to contend, is neither necessary nor relevant. This position,
5 however, is entirely at odds with the stated purposes for MA’s intervention in this
6 hearing, and unworkable considering the scope of the anticipated testimony of its
7 witnesses and nature of its hearing exhibits.

8
9 **2. MA intervened to provide evidence for the Director’s
consideration.**

10 MA was not required to intervene to oppose Community Ambulance’s CON
11 application. It chose to do so. When it intervened, MA stated that it has a “due
12 process right to put on evidence showing that it is meeting the needs of its
13 community and that there is no public necessity for the Applicant’s request for a
14 CON.” *See* MA’s Motion to Intervene, at 3 [Document No. (“Doc.”) 8.] Through its
15 Initial List of Witnesses and Exhibits, filed April 30, 2018 [DOC. 59] (“MA
16 Witness List”), MA identified a number of very broad categories to which its
17 witnesses would testify. As reflected in the Chart, almost all of the documents
18 requested relate to the anticipated testimony of MA’s witnesses who apparently
19 intend to oppose Community Ambulance’s CON application on various grounds,
20 including, the potential for an adverse financial impact on MA and the lack of
21 public need for an additional provider. *See generally* MA Witness List; Chart.
22 Through this anticipated testimony, MA has put relevant documents that are in
23

24 ¹ It should be noted here that counsel for Community Ambulance and MA have
25 met and conferred on at least three occasions concerning the objections to the
26 respective subpoenas and the potential for affirmatively producing responsive
27 documents on a rolling basis up to an including the hearing exhibit deadline. In
28 those discussions, counsel for MA has acknowledged that MA will produce some
documents responsive to the Subpoena. And, counsel for MA and Community
Ambulance intend to continue to work toward reducing the number of issues in
dispute.

1 its possession at issue and waived objections that the documents supporting that
2 testimony are confidential or proprietary. *See e.g. Bain v. Superior Court In &*
3 *For Maricopa Cty.*, 148 Ariz. 331, 333, 714 P.2d 824, 826 (1986), *citing Martinez*
4 *v. Fenton*, 117 Ariz. 292, 293, 572 P.2d 120, 121 (App.1977), vacated on other
5 grounds, 118 Ariz. 119, 575 P.2d 318 (1978); UDALL & LIVERMORE, ARIZONA
6 LAW OF EVIDENCE, § 71) (finding waiver of psychologist-patient privilege and
7 noting privileges as to confidential communications may be waived and the
8 privileged information thereafter is no longer protected.”); *see also* A.R.S. 12-2236
9 (testimony concerning confidential or privileged attorney-client and physician
10 communications can be waived through affirmative testimony of client or
11 patient).

12 For example, MA’s CEO, Bryan Gibson, is expecting to broadly testify
13 about “the potential financial impact of a CON being given to a provider seeking
14 a CON under the terms and conditions proposed by the Applicant and why public
15 necessity and convenience do not require an additional provider under these
16 circumstances.” *See* MA Witness List; Chart. Through this anticipated testimony,
17 MA put at issue the relevant and necessary financial documents requested
18 through the Subpoena to challenge MA’s anticipated hearing testimony and
19 arguments.

20 In addition to the anticipated testimony of its various witnesses, MA
21 apparently intends to rely on “[a]dverse financial impact analyses” and
22 “[r]esponse time statistics” at the hearing, but objects to the production of raw
23 data, documents, and information that would support these anticipated exhibits,
24 and permit Community Ambulance to cross-exam witnesses who intend to speak
25 to these analyses and reports. MA’s position is fundamentally unfair and denies
26 Applicant, the ALJ, and the Director access to relevant information solely in the
27 possession, custody and control of MA that MA has put into issue here.

1 Maricopa Ambulance must acknowledge that in this CON process, unlike
2 a civil litigation in state court, there is no affirmative disclosure obligation as
3 exists under Rule 26.1 of that Arizona Rules of Civil Procedure. Under Rule 26.1,
4 Maricopa Ambulance would be required to affirmatively produce, among other
5 things, the factual basis of its opposition to Community Ambulance’s CON
6 application or “the existence, location, custodian, and general description of any
7 tangible evidence, documents, or electronically stored information that may be
8 relevant to the subject matter of the action.” ARIZ. R. CIV. P. 26.1. Indeed, those
9 rules were established “to ensure that all parties are fairly informed of the facts,
10 legal theories, witnesses, documents, and other information relevant to the
11 action.” Ariz. R. Civ. P. 26.1(c)(1).

12 There are no rules here requiring Intervenors to affirmatively disclose
13 documents revealing not only the good – as they will undoubtedly disclose as
14 hearing exhibits – but the potentially unhelpful, yet relevant documents. Aside
15 from the subpoena process, there is no other pre-hearing mechanism by which
16 Community Ambulance can test MA’s affirmative contentions and anticipated
17 testimony in the CON hearing. Community Ambulance is not interested in a
18 “bloviated” hearing process nor can such an insinuation be the take away from
19 the Subpoena. Rather, the Subpoena is the only opportunity Applicant has
20 available to obtain documents from the Intervenor it would never voluntarily
21 produce as a hearing exhibit.

22
23 **3. The Subpoena is Not Overly Burdensome or Oppressive As**
24 **MA Is Required By Statute And Regulation To Maintain**
25 **Many of These Records.**

26 Community Ambulance is plainly entitled to the production of relevant
27 documents in advance of the hearing that are reasonably related to the topics of
28 MA’s anticipated testimony and hearing exhibits upon which MA intends to rely.
Furthermore, the production of these records should not be particularly

1 burdensome considering the statutes and regulations governing MA as a CON
2 holder requires MA maintain various categories of documents (that happen to be
3 responsive to the Subpoena) for the review and inspection of the Director of the
4 Arizona Department of Health Service (“DHS”).

5 A.R.S. § 36-2241 expressly imposes an obligation on ambulance companies
6 to “maintain and keep within this state reasonable records, books and other data
7 the director requires to enforce the provisions of this article (i.e. Article 2
8 “Regulation of Ambulances and Ambulance Services”).” The documents
9 ambulance service providers are obligated to keep and maintain for the Director’s
10 review and inspection pursuant to this statute are listed at A.A.C. R9-25-
11 910(B)(1-11), and include (1) financial statements; (2) all federal and state income
12 tax records; (3) all employee-related expense reports and payroll records; (4) all
13 bank statements and documents verifying reconciliation; (5) all documents
14 establishing the depreciation of assets; (6) first care forms; (7) all patient billing
15 and reimbursement records; (8) all dispatch records; (9) all ground ambulance
16 service back-up agreements, contracts, grants, and financial assistance records
17 related to ground ambulance vehicles, EMS, and transport; (10) all written
18 ground ambulance service complaints; and (11) information about destroyed or
19 otherwise irretrievable records in a file. MA may contend the documents
20 identified at A.A.C. R9-25-910(B) only become relevant if there was an
21 investigation initiated by DHS. That would miss the point. What the statute and
22 associated regulation show is not only are these documents relevant for a
23 Director’s consideration of compliance with a CON, but for our purposes here,
24 that it is neither unduly burdensome nor oppressive for MA to produce documents
25 responsive to the Subpoena. Particularly because MA is required by statute and
26 regulation to maintain and make these documents readily available for
27 inspection by the Director.

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ORIGINAL filed this 14th day of August, 2018 via the OAH electronic document filing system <https://portal.azoah.com/oedf>, with copies provided to all parties on the approved mailing list by posting through the designated OAH website at <https://portal.azoah.com/oedf/documents/2017-EMS-0104-DHS/index.html>, in accordance with Case Management Order No. 1.

By: /s/ Brendan Murphy

EXHIBIT 1

EXHIBIT 1
Community Ambulance's Responses
to Maricopa Ambulance's Objections to Subpoena *duces tecum*

APPLICANT SUBPOENA REQUEST NOS. ("REQ.") 1-5: Withdrawn

APPLICANT REQ. 6: For any ground ambulance MA has registered to service CON 147 (the "Registered Ambulances"), any documents or communications that show the Registered Ambulances exceed the Minimum Standards for Ground Ambulance Vehicles (as set forth in A.A.C. R9-25-1002) and/or exceed the Minimum Equipment and Supplies for Ground Ambulance Vehicles (as set forth in R9-25-1003.)

Maricopa Ambulance ("MA") RESPONSE TO REQ. 6: This request is unreasonable, oppressive, and unnecessary. Pursuant to ARS §36-2232(A) (11), the Director shall "[i]nspect, at a maximum of twelve-month intervals, each ambulance registered pursuant to section 36-2212 to ensure that the vehicle is operational and safe and that all required medical equipment is operational. At the request of the provider, the inspection may be performed by a facility approved by the director. If a provider requests that the inspection be performed by a facility approved by the director, the provider shall pay the cost of the inspection. Also, R9-25-1002 (C) provides that under A.R.S. § 36-2232(A) (11), the Department shall either inspect an ambulance or receive an inspection report that meets the requirements in this Article by a Department approved inspection facility before a renewal certificate of registration is issued by the Department. There has been no showing or suggestion that the Director has been derelict in her statutory duty or that this information is not otherwise available from the Department.

APPLICANT'S POSITION: Req. 6 is relevant, necessary and reasonably related to Applicant's CON application and has been put at issue through the proposed testimony of MA's witnesses Bryan Gibson, Chief Executive Officer of MA ("Gibson"), Glenn Leland ("Leland") and Roy Ryals ("Ryals"), which includes testimony regarding "Maricopa Ambulance's ambulances and equipment (including communications equipment, onboard technology, and other onboard equipment)."

After conferring with counsel for MA, Community Ambulance understands that Maricopa Ambulance may provide documents that show if its registered ambulances have equipment exceeding the minimum standards set by regulation.

EXHIBIT 1
Community Ambulance's Responses
to Maricopa Ambulance's Objections to Subpoena *duces tecum*

APPLICANT REQ. 7: Any and all documents and/or communications relating in any way to all ambulance transports MA provided and currently provides pursuant to CON 147, including transports provided in rural areas, to public or private health care providers and/or any government agencies, political subdivisions, and/or municipalities in Maricopa County.

MA RESPONSE TO REQ. 7: This request is unreasonable, oppressive, overbroad and unnecessary.

APPLICANT'S POSITION: MA has put the information sought through Req. No. 7 directly at issue in this CON proceeding. The proposed testimony of MA's witnesses Gibson, Leland and Ryals includes broad testimony regarding "Maricopa Ambulance's operational aspects; any other aspects of Maricopa Ambulance's proposed service; the potential financial impact of a CON being given to a provider seeking a CON under the terms and conditions proposed by the Applicant and why public necessity and convenience do not require an additional provider under these circumstances."

Further, to the extent MA has disclosed as hearing exhibits "[a]dverse financial impact analyses" and "[r]esponse time statistics," and expects to put on evidence, including expert testimony concerning its ability to satisfy the demand in Maricopa County and that public necessity does not require an additional provider, evidence of MA's current contractual and non-contractual transport obligations, the distribution and number of transports performed by MA pursuant to its CON through the present date is relevant and necessary information for Applicant's consideration and cross-examination of MA's witnesses at the hearing and for the Director's evaluation.

Further, MA is required to maintain this information to confirm compliance with the interfacility arrival time obligations of its CON. Thus, producing the documents requested here is not unreasonable or oppressive. Finally, this information is relevant to this CON proceeding. A.R.S. § 36-2241 expressly imposes upon ambulance companies operating in Arizona under an obligation to "maintain and keep within this state reasonable records, books and other data the director requires to enforce the provisions of this article (i.e. Article 2 "Regulation of Ambulances and Ambulance Services")."

APPLICANT REQ. 8: Any and all written operational plan(s) that address providing ground ambulance services in rural areas in, and adjacent to, Maricopa County.

MA RESPONSE TO REQ. 8: This request is unreasonable, oppressive, overbroad and unnecessary. Maricopa Ambulance is compliant with its CON, which has been renewed through

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September 21, 2020. To the extent such plan(s) are not available from DHS, moreover, they are proprietary.

APPLICANT'S POSITION: The proposed testimony of MA's witnesses Gibson, Leland and Ryals includes testimony concerning "Maricopa Ambulance's operational aspects; any other aspects of Maricopa Ambulance's proposed service...and why public necessity and convenience do not require an additional provider under these circumstances."

With respect to the objection based on the grounds this information is "proprietary/protected," even if this information is proprietary, MA has put this information directly at issue through the anticipated testimony of the foregoing witnesses. To the extent MA has put into issue that MA may suffer an adverse financial impact if Applicant is awarded a CON in Maricopa County, it has waived objections that the documents and information supporting that testimony is confidential or proprietary. *See generally Bain v. Superior Court In & For Maricopa Cty.*, 148 Ariz. 331, 333, 714 P.2d 824, 826 (1986), citing *Martinez v. Fenton*, 117 Ariz. 292, 293, 572 P.2d 120, 121 (App.1977), vacated on other grounds, 118 Ariz. 119, 575 P.2d 318 (1978); UDALL & LIVERMORE, ARIZONA LAW OF EVIDENCE, § 71 (finding waiver of psychologist-patient privilege and noting privileges as to confidential communications may be waived and the privileged information thereafter is no longer protected."); *see also* A.R.S. 12-2236 (testimony concerning confidential or privileged attorney-client and physician communications can be waived through affirmative testimony of client or patient).

APPLICANT REQ. 9: Any and all documents or communications that show, reflect, and/or report MA's Interfacility Arrival Times for transports provided pursuant to CON 147.

MA RESPONSE TO REQ. 9: This request is unreasonable, oppressive, overbroad and unnecessary. Maricopa Ambulance is compliant with its CON, which has been renewed through September 21, 2020, and which includes provision for interfacility and non-urgent response time.

APPLICANT'S POSITION: The documents requested through Req. 9 are relevant and reasonably related to the anticipated testimony of Gibson and Ryals, both of whom are expected to testify regarding "Maricopa Ambulance's response times including Interfacility ("IF") and convalescent response times, rates, and types and levels of proposed service..." as well as "Maricopa Ambulance's operational aspects; any other aspects of Maricopa Ambulance's proposed service... and why public necessity and convenience do not require an additional provider under these circumstances."

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MA has further put the documents sought through Req. 9 at issue to the extent MA has disclosed as a hearing exhibit “[r]esponse time statistics.”

To the extent MA is required to maintain this information to confirm compliance with the interfacility arrival time obligations of its CON, producing the documents requested here is not unreasonable or oppressive. Instead, this information is relevant to this CON proceeding. A.R.S. § 36-2241 expressly imposes upon ambulance companies operating in Arizona under an obligation to “maintain and keep within this state reasonable records, books and other data the director requires to enforce the provisions of this article (i.e. Article 2 “Regulation of Ambulances and Ambulance Services”).”

APPLICANT REQ. 10: Any and all documents, data, reporting, and/or communications tracking or showing (i) periods of unusual system overload; (ii) offload delays greater than 30 minutes; (iii) late responses due to severe weather conditions; and/or (iv) late responses due to circumstances not in the control of MA (including documents or communications that such determination was made by both the customer, payer, or government entity and MA), from the date MA began providing ambulance service pursuant to CON 147 to present.

MA RESPONSE TO REQ. 10: This request is unreasonable, oppressive, overbroad and unnecessary. Maricopa Ambulance is compliant with its CON, which includes IF response times, and which has been renewed through September 21, 2020.

APPLICANT'S POSITION: Community Ambulance incorporates its response to Req. 9 here.

APPLICANT SUBPOENA REQUEST NO. (“REQ.”) 11: Withdrawn

APPLICANT REQ. 12: Any and all audited financials and auditor's management letters for MA.

MA RESPONSE TO REQ. 12: This request is unreasonable, oppressive, overbroad and unnecessary. Maricopa Ambulance is compliant with its CON, which has been renewed through September 21, 2020.

APPLICANT'S POSITION: Overall, financial documents are relevant, necessary and reasonably related to this hearing so that Applicant may analyze the actual financial impact on MA if

EXHIBIT 1
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Community Ambulance enters the Maricopa County interfacility transport marketplace. Ariz. Admin. Code R9-25-903(B)(2)(“In deciding whether to issue a certificate of necessity to more than one ground ambulance service for convalescent or interfacility transport for the same service area or overlapping service areas, the Director shall consider ... [t]he financial impact on certificate holders whose service area includes all or part of the service area in the requested certificate of necessity.”)

Further, the financial documents requested through Req. 9 are relevant and reasonably related to the anticipated testimony of Gibson, Leland and Ryals, who have been disclosed as potentially testifying about, among other things, “Maricopa Ambulance’s operational aspects; any other aspects of Maricopa Ambulance’s proposed service; **the potential financial impact of a CON being given to a provider seeking a CON under the terms and conditions proposed by the Applicant** and why public necessity and convenience do not require an additional provider under these circumstances.” (emphasis added.)

To the extent MA intends to proffer testimony for the Director’s consideration under the “public necessity” factor of R9-25-903 that it will be adversely impacted financially if Community Ambulance is granted a CON, information concerning the current financial condition of MA is relevant and reasonably related to the public necessity factors in this hearing.

Finally, MA has further put the documents sought through Req. 9 at issue to the extent MA intends to disclose an “[a]dverse financial impact analyses” as a hearing exhibit.

APPLICANT REQ. 13: Any and all current unaudited interim financial statements, with comparable statements for the prior year.

MA RESPONSE TO REQ. 13: This request is unreasonable, oppressive, overbroad and unnecessary. Maricopa Ambulance is compliant with its CON, which has been renewed through September 21, 2020.

APPLICANT’S POSITION: Community Ambulance incorporates its response to Req. 12 here.

APPLICANT REQ. 14: Copies of the previous two fiscal period budgets, current fiscal period budget, and the next fiscal period budget.

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Community Ambulance's Responses
to Maricopa Ambulance's Objections to Subpoena *duces tecum*

MA RESPONSE TO REQ. 14: This request is unreasonable, oppressive, overbroad and unnecessary. Maricopa Ambulance is compliant with its CON, which has been renewed through September 21, 2020.

APPLICANT'S POSITION: Community Ambulance incorporates its response to Req. 12 here.

APPLICANT REQ. 15: Any and all current business plans and/or financial forecasts or projections (including all assumptions) MA prepared or caused to be prepared.

MA RESPONSE TO REQ. 15: This request is unreasonable, oppressive, overbroad and unnecessary. Maricopa Ambulance is compliant with its CON, which has been renewed through September 21, 2020. As a CON holder, Maricopa Ambulance is required to and does provide financial information to the Department. This request also calls for information that is proprietary.

APPLICANT'S POSITION: Community Ambulance incorporates its response to Req. 12 here.

With respect to the objection based on the grounds this information is "proprietary/protected," even if this information is proprietary, MA has put this information directly at issue through the anticipated testimony of the foregoing witnesses. To the extent MA has put into issue that MA may suffer an adverse financial impact if Applicant is awarded a CON in Maricopa County, it has waived objections that the documents and information supporting that testimony is confidential or proprietary. *See generally Bain v. Superior Court In & For Maricopa Cty.*, 148 Ariz. 331, 333, 714 P.2d 824, 826 (1986), citing *Martinez v. Fenton*, 117 Ariz. 292, 293, 572 P.2d 120, 121 (App.1977), vacated on other grounds, 118 Ariz. 119, 575 P.2d 318 (1978); UDALL & LIVERMORE, ARIZONA LAW OF EVIDENCE, § 71 (finding waiver of psychologist-patient privilege and noting privileges as to confidential communications may be waived and the privileged information thereafter is no longer protected."); *see also* A.R.S. 12-2236 (testimony concerning confidential or privileged attorney-client and physician communications can be waived through affirmative testimony of client or patient).

APPLICANT SUBPOENA REQUEST NO. ("REQ.") 16: Withdrawn

APPLICANT REQ. 17: Any and all federal, state and local tax returns for latest closed and all open years for MA.

EXHIBIT 1
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MA RESPONSE TO REQ. 17: This request is unreasonable, oppressive, overbroad and unnecessary. Maricopa Ambulance is compliant with its CON, which has been renewed through September 21, 2020.

APPLICANT'S POSITION: Community Ambulance incorporates its response to Req. 12 here.

APPLICANT REQ. 18: Any and all tax reviews and/or tax audits, including all related documents and communications.

MA RESPONSE TO REQ. 18: This request is unreasonable, oppressive, overbroad and unnecessary. Maricopa Ambulance is compliant with its CON, which has been renewed through September 21, 2020.

APPLICANT'S POSITION: Community Ambulance incorporates its response to Req. 12 here.

APPLICANT SUBPOENA REQUEST NO. ("REQ.") 19: Withdrawn

APPLICANT REQ. 20: Any and all documents or communications evidencing MA employee/staff satisfaction scores and/or turnover reports from the first date MA began providing ambulance service in Maricopa County pursuant to CON 147 to the present date.

MA RESPONSE TO REQ. 20: This request is unreasonable, oppressive, overbroad and unnecessary. Maricopa Ambulance is compliant with its CON, which has been renewed through September 21, 2020.

APPLICANT'S POSITION: Req. 20 seeks information that is relevant, necessary, and reasonably related to address the proposed testimony of MA's witnesses Gibson, Leland and Ryals who are expected to testify regarding "Maricopa Ambulance's personnel (including number and types of personnel, qualifications, scheduling, training, and working conditions)."

APPLICANT REQ. 21: Any and all documents or communications evidencing patient satisfaction scores from the first date MA began providing ambulance service in Maricopa County pursuant to CON 147 to the present date.

EXHIBIT 1
Community Ambulance's Responses
to Maricopa Ambulance's Objections to Subpoena *duces tecum*

MA RESPONSE TO REQ. 21: This request is unreasonable, oppressive, overbroad and unnecessary. Maricopa Ambulance is compliant with its CON, which has been renewed through September 21, 2020.

APPLICANT'S POSITION: Req. 21 seeks information that is relevant, necessary, and reasonably related to address aspects of proposed testimony by MA witnesses by Gibson, Leland and Ryals including: "Maricopa Ambulance's response times including Interfacility ("IF") and convalescent response times, rates, and types and levels of proposed service; Maricopa Ambulance's management (including experience, qualifications, and familiarity with Maricopa County); Maricopa Ambulance's personnel (including number and types of personnel, qualifications, scheduling, training, and working conditions); Maricopa Ambulance's ambulances and equipment (including communications equipment, onboard technology, and other onboard equipment); Maricopa Ambulance's operational aspects; any other aspects of Maricopa Ambulance's proposed service...and why public necessity and convenience do not require an additional provider under these circumstances."

APPLICANT REQ. 22: Any and all documents or communications evidencing complaints received from any source regarding MA, from the first date MA began providing ambulance service in Maricopa County pursuant to CON 147 to the present date.

MA RESPONSE TO REQ. 22: This request is unreasonable, oppressive, overbroad and unnecessary. Maricopa Ambulance is compliant with its CON, which has been renewed through September 21, 2020. *See also* ARS 36-2245, which requires the Director to make inquiry into any complaint received that relates to ground ambulance service.

APPLICANT'S POSITION: Req. 22 seeks information that is relevant, necessary, and reasonably related to address aspects of proposed testimony by MA witnesses Gibson, Leland and Ryals including: "Maricopa Ambulance's response times including Interfacility ("IF") and convalescent response times, rates, and types and levels of proposed service; Maricopa Ambulance's management (including experience, qualifications, and familiarity with Maricopa County); Maricopa Ambulance's personnel (including number and types of personnel, qualifications, scheduling, training, and working conditions); Maricopa Ambulance's ambulances and equipment (including communications equipment, onboard technology, and other onboard equipment); Maricopa Ambulance's operational aspects; any other aspects of Maricopa Ambulance's proposed service... and why public necessity and convenience do not require an additional provider under these circumstances."

EXHIBIT 1
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Community Ambulance further states that this request calls for the production of documents that are required to be maintained by an ambulance service provider pursuant to A.R.S. § 36-2241 and A.A.C. R9-25-910(10) (requiring an ambulance service provider to maintain “written ground ambulance service complaints”), and are therefore relevant, not unreasonable and not oppressive to the extent ambulance providers are required to maintain these records.

APPLICANT REQ. 23: Withdrawn

APPLICANT REQ. 24: All documents and/or communications evidencing data from [MA's] Computer Aided Dispatch (“CAD”) system for Maricopa County during the period of January 1, 2013 through the present date [full request not reproduced here]:

MA RESPONSE TO REQ. 24: This request is unreasonable, oppressive, overbroad and unnecessary. Maricopa Ambulance is compliant with its CON, which has been renewed through September 21, 2020.

APPLICANT'S POSITION: Req. 24 seeks the production of documents that are relevant, necessary and reasonably related to the anticipated testimony of MA witnesses Gibson and Roy Ryals regarding “Maricopa Ambulance’s response times including Interfacility (“IF”) and convalescent response times, rates, and types and levels of proposed service...” as well as “Maricopa Ambulance’s operational aspects; any other aspects of Maricopa Ambulance’s proposed service... and why public necessity and convenience do not require an additional provider under these circumstances.”

Community Ambulance further states that this request calls for the production of data that is required to be maintained by an ambulance service provider pursuant to A.R.S. § 36-2241 and A.A.C. R9-25-910(8), and are therefore is relevant, not unreasonable, overbroad, or oppressive to the extent ambulance providers are required to maintain these records. Nor is this request overbroad as it requests information from 2016 (the date Maricopa Ambulance was granted its CON) to the current date.

Further, MA has put the data sought through Req. 24 at issue to the extent MA has disclosed “[r]esponse time statistics [to come]” as a hearing exhibit.

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Finally, to the extent this data may contain PHI, the parties are currently formalizing a protective order that would address HIPPA issues concerning the disclosure of PHI.

APPLICANT REQ. 25: Any document and/or communication indicating that any employee of MA advised or directed a health care facility, payer, government entity and/or patient to dial 911 or otherwise utilize the 911 system for any transport originating at a hospital or urgent care facility in Maricopa County from the first date MA began providing ambulance service in Maricopa County pursuant to CON 147 to the present date.

MA RESPONSE TO REQ. 25: This request is unreasonable, oppressive, overbroad and unnecessary. Maricopa Ambulance is compliant with its CON, which has been renewed through September 21, 2020. Without waiving any objections, to the extent such documents exist they will be produced.

APPLICANT'S POSITION: Req. 25 seeks the production of documents that are relevant, necessary and reasonably related to the anticipated testimony of MA witnesses Gibson and Ryals, who are expected to testify about "Maricopa Ambulance's response times including Interfacility ("IF") and convalescent response times, rates, and types and levels of proposed service..." as well as "Maricopa Ambulance's operational aspects; any other aspects of Maricopa Ambulance's proposed service... and why public necessity and convenience do not require an additional provider under these circumstances."

APPLICANT REQ. 26: Any document or communication pertaining to any call for ground ambulance services made to MA that was referred to any other CON holder in Maricopa County from the first date MA began providing ambulance service in Maricopa County pursuant to CON 147 to the present date.

MA RESPONSE TO REQ. 26: This request is unreasonable, oppressive, overbroad and unnecessary. Maricopa Ambulance is compliant with its CON, which has been renewed through September 21, 2020. Without waiving any objections, to the extent such documents exist they will be produced.

APPLICANT'S POSITION: Req. 26 seeks the production of documents that are relevant, necessary and reasonably related to the anticipated testimony of MA witnesses Gibson and Ryals both include testimony regarding "Maricopa Ambulance's response times including Interfacility ("IF") and convalescent response times, rates, and types and levels of proposed service..." as well as "Maricopa Ambulance's operational aspects; any other aspects of Maricopa Ambulance's

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proposed service... and why public necessity and convenience do not require an additional provider under these circumstances.”

Further, MA has affirmatively represented that it intends to disclose “Mutual Aid Agreements,” which it has not yet disclosed. The documents sought through Req. 26 establish whether MA has complied with mutual aid or back up agreements in the interfacility transport context.

APPLICANT REQ. 27: System status/priority posting plans and locations for all areas/systems (both 911 & inter-facility) from the first date MA began providing ambulance service in Maricopa County pursuant to CON 147 to the present date, including street address and city.

MA RESPONSE TO REQ. 27: This request is unreasonable, oppressive, overbroad and unnecessary. Maricopa Ambulance is compliant with its CON, which includes both 911 and interfacility response times, and which has been renewed through September 21, 2020. RBR, moreover, has not applied for a CON to do 911 transports and this information, to the extent not provided to the Department, is proprietary.

APPLICANT'S POSITION: The information sought through Req. 27 is relevant, necessary, and reasonably related to aspects of the proposed testimony of Gibson and Ryals regarding “Maricopa Ambulance’s response times including Interfacility (“IF”) and convalescent response times, rates, and types and levels of proposed service...” as well as “Maricopa Ambulance’s operational aspects; any other aspects of Maricopa Ambulance’s proposed service.”

With respect to the objection based on the grounds this information is “proprietary/protected,” even if this information is proprietary, MA has put this information directly at issue through the anticipated testimony of the foregoing witnesses.

Further, MA has put into issue the documents sought through Req. 27 to the extent MA has disclosed as hearing exhibits “[r]esponse time statistics” and “adverse financial impact analyses.”

APPLICANT REQ. 28: Any and all documents and communications relating to, or that support, the potential testimony of [Mr. Gibson], or any other witness for MA, concerning the “population demographics of the proposed service area,” including any population demographic analyses MA has prepared or caused to be prepared.”

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MA RESPONSE TO REQ. 28: This request is unreasonable, oppressive, overbroad and unnecessary. This a matter on which Applicant bears the burden of proof. These documents and information should first be provided in a timely fashion by Applicant, at which time Maricopa Ambulance can evaluate it and then furnish any required response.

APPLICANT'S POSITION: Req. 28 seeks the production of documents that are related to and/or support specific testimony of Gibson (or any other MA witness) as detailed in MA's Initial List Witnesses and Exhibits ("Witness List"). Thus, this request seeks the production of documents that are necessary, in the possession, custody and control of MA (not Applicant), and are reasonably related to MA's intervention in this CON hearing to provide information for the Director's consideration in opposition to Community Ambulance's application.

APPLICANT REQ. 29: All documents and communications relating to, or that support, the potential testimony of Mr. Gibson, or any other witness for MA, concerning "the geographic distribution of health care institutions in the proposed service area," including any geographic distribution of health care institution analyses MA has prepared or caused to be prepared.

MA RESPONSE TO REQ. 29: This request is unreasonable, oppressive, overbroad and unnecessary. This a matter on which Applicant bears the burden of proof. These documents should be provided in a timely fashion by Applicant, at which time Maricopa Ambulance can evaluate it and furnish any required response.

APPLICANT'S POSITION: Req. 29 seeks the production of documents that are related to and/or support specific testimony of Gibson (or any other MA witness) as detailed in MA's Witness List. Thus, this request seeks the production of documents that are necessary, in the possession, custody and control of MA (not Applicant), and are reasonably related to MA's intervention in this CON hearing to provide information for the Director's consideration in opposition to Community Ambulance's application.

APPLICANT REQ. 30: All documents and communications relating to, or that support, the potential testimony of Mr. Gibson, or any other witness for MA, concerning MA's "response times including Interfacility [transports] and convalescent response times, rates, and types and levels of proposed service."

MA RESPONSE TO REQ. 30: This request is unreasonable, oppressive, overbroad and unnecessary. Maricopa Ambulance is compliant with its CON, which has been renewed through September 21, 2020, and which includes IF and convalescent response times. Without waiving

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any objection, to the extent Maricopa Ambulance has affirmative evidence on this point on which Mr. Gibson or other of its witnesses will rely on or introduce at hearing, that information will be produced.

APPLICANT'S POSITION: Req. 30 seeks the production of documents that are reasonably related to and/or support specific testimony of Gibson (or any other MA witness) as detailed in MA's Witness List. Further, these documents are relevant, and MA has put these documents sought through Req. 30 at issue, to the extent MA intends to disclose as a hearing exhibit "[r]esponse time statistics."

APPLICANT REQ. 31: All documents and communications relating to, or that support, the potential testimony of Mr. Gibson, or any other witness for MA, concerning MA's "management (including experience, qualifications, and familiarity with Maricopa County)."

MA RESPONSE TO REQ. 31: This request is unreasonable, oppressive, overbroad and unnecessary. Without waiving any objection, to the extent Maricopa Ambulance has affirmative evidence on this point on which Mr. Gibson or other of its witnesses will rely on or introduce at hearing, that information will be produced.

APPLICANT'S POSITION: Req. 31 seeks the production of documents that are reasonably related to and/or support specific testimony of Gibson (or any other MA witness) as detailed in MA's Witness List.

APPLICANT REQ. 32: All documents and communications relating to, or that support, the potential testimony of Mr. Gibson, or any other witness concerning MA's "personnel (including number and types of personnel, qualifications, scheduling, training, and working conditions).

MA RESPONSE TO REQ. 32: This request is unreasonable, oppressive, overbroad and unnecessary. Without waiving any objection, to the extent Maricopa Ambulance has affirmative evidence on this point on which Mr. Gibson or other of its witnesses will rely on or introduce at hearing, that information will be produced.

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APPLICANT'S POSITION: Req. 32 seeks the production of documents that are reasonably related to and/or support specific testimony of Gibson (or any other MA witness) as detailed in MA's Witness List.

APPLICANT REQ. 33: All documents and communications relating to, or that support, the potential testimony of Mr. Gibson, or any other witness concerning MA's "ambulances and equipment (including communications equipment, onboard technology, and other onboard equipment)."

MA RESPONSE TO REQ. 33: This request is unreasonable, oppressive, overbroad and unnecessary. Without waiving any objection, to the extent Maricopa Ambulance has affirmative evidence on this point on which Mr. Gibson or other of its witnesses will rely on or introduce at hearing, that information will be produced.

APPLICANT'S POSITION: Req. 33 seeks the production of documents that are reasonably related to and/or support specific testimony of Gibson (or any other MA witness) as detailed in MA's Witness List.

APPLICANT REQ. 34: All documents and communications relating to, or that support, the potential testimony of Mr. Gibson, or any other witness for MA, concerning MA's "operational aspects."

MA RESPONSE TO REQ. 34: This request is unreasonable, oppressive, overbroad and unnecessary. Without waiving any objection, to the extent Maricopa Ambulance has affirmative evidence on this point on which Mr. Gibson or other of its witnesses will rely on or introduce at hearing, that information will be produced.

APPLICANT'S POSITION: Req. 34 seeks the production of documents that are reasonably related to and/or support specific testimony of Gibson (or any other MA witness) as detailed in MA's Witness List.

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APPLICANT REQ. 35: All documents and communications relating to, or that support, the potential testimony of Mr. Gibson, or any other witness for MA, concerning “the potential financial impact of a CON being given to a provider seeking a CON under the terms and conditions proposed by the Applicant and why public necessity and convenience do not require an additional provider under these circumstances.”

MA RESPONSE TO REQ. 35: Without waiving any objection, to the extent Maricopa Ambulance has affirmative evidence on this point on which Mr. Gibson or other of its witnesses will rely on or introduce at hearing, that information will be produced.

APPLICANT'S POSITION: Req. 35 seeks the production of documents that are reasonably related to and/or support specific testimony of Gibson (or any other MA witness) as detailed in MA's Witness List.

Further, MA put the documents requested through Req. 35 at issue and those documents are reasonably related to MA's disclosure of the following hearing exhibits: “[a]dverse financial impact analyses” and “[r]esponse time statistics”

APPLICANT REQ. 36: All documents and communications relating to, or that support, the potential testimony of Mr. Gibson, or any other witness for MA, concerning MA's “efforts to reach out and market its services to ground ambulance service consumers in its CON area.”

MA RESPONSE TO REQ. 36: Without waiving any objection, to the extent Maricopa Ambulance has affirmative evidence on this point on which Mr. Gibson or other of its witnesses will rely on or introduce at hearing, that information will be produced.

APPLICANT'S POSITION: Req. 36 seeks the production of documents that are reasonably related to and/or support specific testimony of Gibson (or any other MA witness) as detailed in MA's Witness List.

APPLICANT REQ. 37: All documents and communications relating to, or that support, the potential testimony of Michelle Angle, Director of Marketing and Business Development for MA, or any other witness for MA, concerning “the market for ground ambulance services in Maricopa County,” including any and all reports, analysis, memoranda, or other such documents or communications reflecting analysis Angle has conducted with respect to the market for ground ambulance services in Maricopa County in the previous 6 years.

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MA RESPONSE TO REQ. 37: This request is unreasonable, oppressive, overbroad and unnecessary. Without waiving any objection, to the extent Maricopa Ambulance has affirmative evidence on this point on which Ms. Angle or other of its witnesses will rely on or introduce at hearing, that information will be produced.

APPLICANT'S POSITION: Req. 37 seeks the production of documents that are reasonably related to and/or support specific testimony of Ms. Angle (or any other MA witness) as detailed in MA's Witness List.

APPLICANT REQ. 38: All communications by and between MA and emergency medical consultant Roy Ryals related in any way to Mr. Ryals proposed testimony for the hearing on Community Ambulance's CON Application, as set forth in MA's Initial List of Witnesses and Exhibits.

MA RESPONSE TO REQ. 38: This request is unreasonable, oppressive, overbroad and unnecessary. Without waiving any objection, that information will be produced.

APPLICANT'S POSITION: Req. 38 seeks the production of documents that are reasonably related to and/or support specific testimony of Ryals (or any other MA witness) as detailed in MA's Witness List.

APPLICANT REQ. 39: All documents and communications relating to, or that support, the potential testimony of Mr. Ryals, or any other witness for MA, concerning "the population demographics of the proposed service area," including any consultant or expert reports, analyses, or memoranda, and/or maps Mr. Ryals prepared.

MA RESPONSE TO REQ. 39: This request is unreasonable, oppressive, overbroad and unnecessary. Without waiving any objection, to the extent Maricopa Ambulance has affirmative evidence on this point on which Ryals or other of its witnesses will rely on or introduce at hearing, that information will be produced.

APPLICANT'S POSITION: Req. 39 seeks the production of documents that are reasonably related to and/or support specific testimony of Ryals (or any other MA witness) as detailed in MA's Witness List.

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APPLICANT REQ. 40: All documents and communications relating to, or that support, the potential testimony of Mr. Ryals, or any other witness for MA, concerning “the geographic distribution of health care institutions in the proposed service area,” including any consultant or export reports, analyses, or memoranda, and/or maps Mr. Ryals prepared.

MA RESPONSE TO REQ. 40: This request is unreasonable, oppressive, overbroad and unnecessary. Without waiving any objection, to the extent Maricopa Ambulance has affirmative evidence on this point on which Mr. Ryals or other of its witnesses will rely on or introduce at hearing, that information will be produced.

APPLICANT'S POSITION: Req. 40 seeks the production of documents that are reasonably related to and/or support the specific testimony of Ryals (or any other MA witness) as detailed in MA's Witness List.

APPLICANT REQ. 41: All documents and communications relating to, or that support, the potential testimony of Mr. Ryals, or any other witness for MA, concerning MA's “response times including Interfacility (“IF”) and convalescent response times, rates, and types and levels of proposed service,” including any consultant or export reports, analyses, and/or memoranda Mr. Ryals prepared.

MA RESPONSE TO REQ. 41: This request is unreasonable, oppressive, overbroad and unnecessary. Without waiving any objection, to the extent Maricopa Ambulance has affirmative evidence on this point on which Mr. Ryals or other of its witnesses will rely on or introduce at hearing, that information will be produced.

APPLICANT'S POSITION: Req. 41 seeks the production of documents that are reasonably related to and/or support specific testimony of Ryals (or any other MA witness) as detailed in MA's Witness List.

Further, MA put the documents requested through Req. 41 at issue and those documents are reasonably related to MA's disclosure of the following hearing exhibits: “[a]dverse financial impact analyses” and “[r]esponse time statistics”

APPLICANT REQ. 42: All documents and communications relating to, or that support, the potential testimony of Mr. Ryals, or any other witness for MA, concerning MA's “management

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(including experience, qualifications, and familiarity with Maricopa County),” including any consultant or expert reports, analyses, and/or memoranda Mr. Ryals prepared.

MA RESPONSE TO REQ. 42: This request is unreasonable, oppressive, overbroad and unnecessary. Without waiving any objection, to the extent Maricopa Ambulance has affirmative evidence on this point on which Mr. Ryals or other of its witnesses will rely on or introduce at hearing, that information will be produced.

APPLICANT'S POSITION: Req. 42 seeks the production of documents that are reasonably related to and/or support specific testimony of Ryals (or any other MA witness) as detailed in MA's Witness List.

APPLICANT REQ. 43: All documents and communications relating to, or that support, the potential testimony of Mr. Ryals, or any other witness for MA, concerning MA's "personnel (including number and types of personnel, qualifications, scheduling, training, and working conditions), including any consultant or expert reports, analyses, and/or memoranda Mr. Ryals prepared.

MA RESPONSE TO REQ. 43: This request is unreasonable, oppressive, overbroad and unnecessary. Without waiving any objection, to the extent Maricopa Ambulance has affirmative evidence on this point on which Mr. Ryals or other of its witnesses will rely on or introduce at hearing, that information will be produced.

APPLICANT'S POSITION: Req. 43 seeks the production of documents that are reasonably related to and/or support specific testimony of Ryals (or any other MA witness) as detailed in MA's Witness List.

APPLICANT REQ. 44: All documents and communications relating to, or that support, the potential testimony of Mr. Ryals, or any other witness for MA, concerning MA's "ambulances and equipment (including communications equipment, onboard technology, and other onboard equipment),” including any consultant or expert reports, analyses, and/or memoranda Mr. Ryals prepared.

MA RESPONSE TO REQ. 44: This request is unreasonable, oppressive, overbroad and unnecessary. Without waiving any objection, to the extent Maricopa Ambulance has affirmative

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evidence on this point on which Mr. Ryals or other of its witnesses will rely on or introduce at hearing, that information will be produced.

APPLICANT'S POSITION: Req. 44 seeks the production of documents that are reasonably related to and/or support specific testimony of Ryals (or any other MA witness) as detailed in MA's Witness List.

APPLICANT REQ. 45: All documents and communications relating to, or that support, the potential testimony of Mr. Ryals, or any other witness for MA, concerning MA's operational aspects (including the operations center, posting locations, and deployment)," including any consultant or export reports, analyses, and/or memoranda Mr. Ryals prepared.

MA RESPONSE TO REQ. 45: This request is unreasonable, oppressive, overbroad and unnecessary. Without waiving any objection, to the extent Maricopa Ambulance has affirmative evidence on this point on which Mr. Ryals or other of its witnesses will rely on or introduce at hearing, that information will be produced.

APPLICANT'S POSITION: Req. 45 seeks the production of documents that are reasonably related to and/or support specific testimony of Ryals (or any other MA witness) as detailed in MA's Witness List.

APPLICANT REQ. 46: All documents and communications relating to, or that support, the potential testimony of Mr. Ryals, or any other witness for MA, concerning "the potential financial impact of a CON being given to a provider seeking a CON under the terms and conditions proposed by the Applicant and why public necessity and convenience do not require an additional provider under these circumstances," including any consultant or export reports, analyses, and/or memoranda Mr. Ryals prepared.

MA RESPONSE TO REQ. 46: This request is unreasonable, oppressive, overbroad and unnecessary. Without waiving any objection, to the extent Maricopa Ambulance has affirmative evidence on this point on which Mr. Ryals or other of its witnesses will rely on or introduce at hearing, that information will be produced.

APPLICANT'S POSITION: Req. 46 seeks the production of documents that are reasonably related to and/or support specific testimony of Ryals (or any other MA witness) as detailed in MA's Witness List.

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Further, MA put the documents requested through Req. 41 at issue and those documents are reasonably related to MA's disclosure of the following hearing exhibits: "[a]dverse financial impact analyses" and "[r]esponse time statistics"

APPLICANT Req. 47: Withdrawn

APPLICANT REQ. 48: All documents and/or communications between MA (including its lawyers) and any government entities and/or public officials, elected or not, related to Community Ambulance's CON application, excluding filings submitted by MA in this action, 2017-EMS-0104-DHS (EMS No. 0283).

MA RESPONSE TO REQ. 48: This request is unreasonable, oppressive, overbroad and unnecessary.

APPLICANT'S POSITION: The documents sought through Req. 48 are relevant, necessary, and reasonably related issues related to MA's communications with fire chiefs, fire districts, and municipalities about Community Ambulance's application and potential attempts to influence public or political opinions concerning the entry of Community Ambulance into the Maricopa County Ambulance System.

APPLICANT Req. 49: Withdrawn

APPLICANT REQ. 50: Any and all documents or communications evidencing an estimate of annual ALS transports and BLS transports and miles MA would lose if Community Ambulance is granted a CON.

MA RESPONSE TO REQ. 50: Without waiving any objection, to the extent Maricopa Ambulance has affirmative evidence on this point on which Mr. Ryals or other of its witnesses will rely on or introduce at hearing, that information will be produced.

APPLICANT'S POSITION: MA has not asserted any objections to Req. 50. Applicant expects MA will produce documents responsive to this request.