

Hofmeyr Law PLLC
31 N. 6th Avenue
Suite 105-466
Tucson, Arizona 85701
TELEPHONE 520.477.9035

Adriane J. Hofmeyr - State Bar No. 025100
adriane@hofmeyrlaw.com
Attorney for ABC Ambulance, LLC

BEFORE THE OFFICE OF ADMINISTRATIVE HEARINGS

| | |
|---|---|
| <p>In the Matter of:</p> <p>Critical Air Response Enterprises, LLC dba AirCare1 Ground Ambulance Division,</p> <p>Applicant.</p> | <p>Docket No. 2020-EMS-0004-DHS (EMS No. 01216)</p> <p>MOTION TO INTERVENE OF ABC AMBULANCE LLC (CON NO. 139) And MOTION FOR PREHEARING CONFERENCE</p> <p>(Assigned: The Hon. Tammy Eigenheer)</p> |
|---|---|

Pursuant to A.R.S. § 36-2234, Arizona Administrative Code R2-19-102(C), and Rule 24, *Arizona Rules of Civil Procedure*, Petitioner ABC Ambulance, LLC (“ABC”) hereby moves to intervene in the application filed on September 13, 2018 (“Application”) by Critical Air Response Enterprises, LLC dba AirCare1 Ground Ambulance Division (“Applicant” or “AirCare1”). ABC holds a CON for interfacility and convalescent transport services that overlaps with Applicant’s proposed service area. This motion is supported by the attached Memorandum of Points and Authorities.

MEMORANDUM OF POINTS AND AUTHORITIES

A. BACKGROUND

Pursuant to the Notice of Hearing and Appointment of Administrative Law Judge

1 dated July 2, 2019 (“NOH”), AirCare1 filed an application with the Arizona Department of
2 Health Services to issue an initial Certificate of Necessity (“CON”) to operate scheduled
3 interfacility and convalescent ambulance transports for the entire political subdivision of
4 Maricopa County plus the incorporated area of the city of Apache Junction in Pinal County.
5 NOH, p. 1:16-20.
6

7 Petitioner ABC holds CON No. 139, granted on May 5, 2015, which covers
8 scheduled interfacility and convalescent transport services for almost the entire geographic
9 area of Maricopa County.
10

11 **B. LEGAL AUTHORITY**

12 Rule 24(a), *Arizona Rules of Civil Procedure*, provides that a party may intervene as
13 of right in a matter when it “claims an interest relating to the property or transaction which
14 is the subject of the action and the applicant is so situated that the disposition of the action
15 may as a practical matter impair or impede the applicant’s ability to protect that interest,
16 unless the applicant’s interest is adequately represented by existing parties.”
17

18 **C. ABC’S SERVICES AND SERVICE AREA OVERLAP WITH** 19 **APPLICANT’S PROPOSED SERVICES AND SERVICE AREA**

20 ABC has a protectable interest in these proceedings sufficient to satisfy Rule 24.
21 ABC holds a CON that authorizes ABC to provide scheduled interfacility and convalescent
22 ambulance services for almost all of Maricopa County. AirCare1 wishes to provide these
23 exact services in the same service area. The granting of a CON to AirCare1 will have a
24 direct impact on ABC, because it proposes to offer the same services that ABC already
25 provides in the same service area that ABC already covers. Moreover, no other party will
26 adequately represent ABC’s interests at the hearing. ABC is uniquely situated to provide
27
28

1 information for this Office's determination on the issue of public necessity, in particular,
2 but not limited to, the issue of the need for an additional provider of IFT services in
3 Maricopa County, and the financial impact on ABC if Applicant is granted a CON.

4 **D. CONCLUSION**

5 It is respectfully requested that ABC's motion for intervention be granted and that a
6 prehearing conference be set, at which the issues can be outlined, case management
7 deadlines set, and a hearing date established.
8

9
10 RESPECTFULLY SUBMITTED this 22nd day of July, 2019.

11 HOFMEYR LAW PLLC
12 By /s/ Adriane J. Hofmeyr
13 Adriane J. Hofmeyr
14 *Attorney for ABC Ambulance, LLC*

15 **CERTIFICATE OF SERVICE**

16 ORIGINAL filed using the OAH electronic document filing system
17 <http://www.azoah.com/motions.html>
18 this 22nd day of July, 2019.

19 By: /s/ Adriane Hofmeyr

20 Copy via mail this 22nd day of
21 July, 2019 to:

22 Clerk of the Department
23 Arizona Department of Health Services
24 150 N. 18th Ave., Room 200
25 Phoenix, AZ 85007

26 Copy via email only
27 this 22nd day of July, 2019 to:

28 Kevin Ray
Office of the Attorney General
2005 N. Central Ave.
Phoenix, AZ 85004
Attorneys for Arizona Department of Health Services/BEMSTS

Copy via mail this 22nd day of
July, 2019 to:

1 Denise Wayne, President
2 Critical Air Response Enterprise, LLC dba
3 AirCare1 Ground Ambulance Division
4 5345 Wyoming Blvd., NE
5 Albuquerque, NM 87109

6 Jessica Rigler
7 ADHS/Public Health Services
8 150 N. 18th Ave., Suite 505
9 Phoenix, AZ 85007

10 Aaron Sams, MBA
11 Certificate of Necessity & Ambulance Rates Manager
12 ADHS/Bureau of Emergency Medical Services & Trauma System
13 150 N. 18th Ave., Suite 540
14 Phoenix, AZ 85007-3248

15 Tammy Eigenheer
16 Administrative Law Judge
17 Office of Administrative Hearings
18 1740 W. Adams, Lower Level
19 Phoenix, AZ 85007

20 Ronna Fickbohm
21 FLETCHER STRUSE FICKBOHM & WAGNER PLC
22 6750 N. Oracle Road
23 Tucson, Arizona 85704
24 *Attorneys for AMR CON Holders*

25 /s/ Adriane Hofmeyr

26
27
28