

# PAGE, WOLFBERG & WIRTH LLC

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June 29, 2010

*VIA ELECTRONIC FILING AND CERTIFIED MAIL*

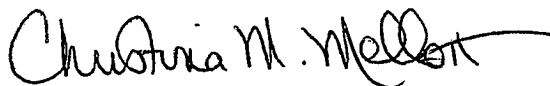
Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
P.O. Box 3265  
Harrisburg, PA 17105-3265

**Re: Non Profit Emergency Service of Beaver County, Inc.  
t/d/b/a Medic Rescue; Docket No. C-2010-2150051**

Dear Secretary Chiavetta:

Enclosed please find an original and three (3) copies of the Preliminary Objections of Non Profit Emergency Service of Beaver County, Inc. t/d/b/a Medic Rescue in the above-captioned matter, accompanied by a Notice to Plead and a Certificate of Service. A copy of the Preliminary Objections, Notice to Plead and Certificate of Service has been served upon Wendy J. Keezel and the Office of Administrative Law Judge. If you have any questions, please feel free to contact me. Thank you for your cooperation.

Very truly yours,



Christina M. Mellott

CMM:ms  
Enclosures

Rosemary Chiavetta, Secretary  
June 29, 2010  
Page 2

cc: Medic Rescue  
Wendy J. Keezel, Chief of Enforcement, Bureau of Transportation & Safety  
Chief Administrative Law Judge

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

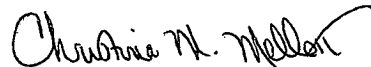
Pennsylvania Public Utility Commission	:	
Bureau of Transportation and Safety	:	
	:	
v.	:	Docket No. C-2010-2150051
	:	
Non Profit Emergency Service of	:	
Beaver County, Inc.	:	
t/d/b/a Medic Rescue	:	

**NOTICE TO PLEAD**

TO: Wendy J. Keezel, Chief of Enforcement  
PUC - Bureau of Transportation and Safety  
P.O Box 3265  
Harrisburg, PA 17105-3265

The attached Preliminary Objection of Nonprofit Emergency Service of Beaver County, Inc. t/d/b/a Medic Rescue has been filed with the Pennsylvania Public Utility Commission in the above-captioned proceeding. You are hereby notified that, pursuant to 52 Pa. Code §§ 5.61 and 5.101, you have ten (10) days from the date of service of the enclosed Preliminary Objection within which to file an Answer. If you do not file an Answer, judgment may be entered against you. Your Answer should be filed with the Secretary of the Pennsylvania Public Utility Commission with a copy served on the undersigned counsel for Nonprofit Emergency Service of Beaver County, Inc. t/d/b/a Medic Rescue.

Dated: June 29, 2010



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Christina M. Mellott, Esquire  
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Mechanicsburg, PA 17050  
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Counsel for Nonprofit Emergency Service  
of Beaver County, Inc. t/d/b/a Medic  
Rescue.

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission	:	
Bureau of Transportation and Safety	:	
	:	
v.	:	Docket No. C-2010-2150051
	:	
Non Profit Emergency Service of	:	
Beaver County, Inc.	:	
t/d/b/a Medic Rescue	:	

**PRELIMINARY OBJECTIONS OF  
NON PROFIT EMERGENCY SERVICE OF BEAVER COUNTY, INC.  
t/d/b/a MEDIC RESCUE**

AND NOW, Nonprofit Emergency Service of Beaver County, Inc. t/d/b/a Medic Rescue (“Medic Rescue” or “Respondent”), by and through its undersigned counsel, Page, Wolfberg & Wirth, LLC, and pursuant to the provisions of 52 Pa. Code § 5.101, files these Preliminary Objections stating that the Complaint filed by the Bureau of Transportation and Safety is insufficiently specific in its content to properly afford Medic Rescue an opportunity to mount a defense. In support of the Preliminary Objections, Medic Rescue states as follows:

1. Paragraph 5 of the Complaint states that:

The logs that were provided to Officer Barlett by Respondent, showed paratransit service was provided for passengers on the following dates in the year 2009: October 4 and 18 on two occasions each day, October 10, 11, 24, 25, 28 and 31 on one occasion each day, November 1 and 28 on one occasion each day, November 26 on nine occasions, December 20, 26 and 27 on one occasion each day, December 24 on three occasions, and December 25 on nine occasions. The logs showed that on each occasion, Respondent charged rates lower than specified on its officially filed tariff with this Commission.

2. Paragraph 6 of the Complaint states that:

The logs that were provided to Officer Barlett by Respondent, showed paratransit service was provided for passenger on the following dates: November 22 and November 26, 2009, on one occasion each day. The logs showed that on each occasion, Respondent charged rates higher than specified on its officially filed tariff with this Commission.

3. The Complaint does not specify which transports the Bureau of Transportation and Safety is referring to on each day.
4. The Complaint does not specify what the Respondent allegedly charged on each of the transports.
5. The Complaint does not specify what the Respondent's tariffs require that Respondent charge each of the patients transported on each date in question.
6. The Complaint does not specify how each transport referred to in Paragraph 5 of the Complaint is lower than specified on its officially filed tariff with this Commission. For example, is the Bureau of Transportation and Safety alleging that the Respondent is charging a rate lower than its base rate, is the Bureau of Transportation and Safety alleging that Respondent is charging a rate lower than its mileage rate, is the Bureau of Transportation and Safety alleging that Respondent is misapplying a rule that is resulting in a mischarge, etc.?
7. The Complaint does not specify how each transport referred to in Paragraph 6 of the Complaint is higher than specified on its officially filed tariff with this Commission. For example, is the Bureau of Transportation and Safety alleging that the Respondent is charging a rate higher than its base rate, is the Bureau of Transportation and Safety alleging that Respondent is charging a rate higher than its mileage rate, is the Bureau of Transportation and Safety alleging that Respondent is misapplying a rule that

is resulting in a mischarge, etc.?

8. 52 Pa. Code § 5.101(a)(3) permits Preliminary Objections to be filed when there is insufficient specificity in a pleading.

9. The Commission's regulations contemplate the filing of Preliminary Objections in lieu of an Answer when a pleading contains insufficient specificity. 52 Pa. Code §§ 5.101(e)(1).

10. The Commission has held that the preliminary objection practice is similar to that utilized in Pennsylvania civil practice. *Equitable Small Transportation Intervenors v. Equitable Gas Company*, 1994 Pa. PUC LEXIS 69, PUC Docket No. C-00935435 (1994).

11. A preliminary objection in the nature of a request for a more specific pleading is appropriate when a pleading is insufficiently clear to enable a defendant to prepare a response or fails to inform a defendant with accuracy and completeness of the basis on which a recovery is sought. *Commonwealth, Environmental Pollution Strike Force v. Jeannette*, 9 Pa. Commw. 306, 305 A.2d 774 (Pa. Commw. Ct. 1973); *Rambo v. Greene*, 2006 Pa. Super 231, 906 A.2d 1232 (Pa. Super. Ct. 2006); *Unified Sportsmen of Pennsylvania v. Pennsylvania Game Commission*, 950 A.2d 1120 (Pa. Commw. Ct. 2008).

12. On several of the dates listed in Paragraph 5 and/or Paragraph 6, there are inaccurate statements made concerning the number of paratransit transports that were performed by Respondent, and without better identification of the specific transports at issue, Respondent is unable to determine which of the transports performed on these dates the Bureau of Transportation and Safety is alleging improper charges in order to

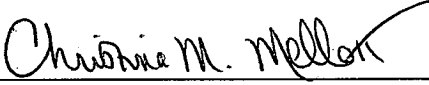
properly mount a defense to each of the allegations.

13. Without specific information on how each patient on each date was charged a rate higher or lower than specified in the tariff, the Respondent is unable to properly mount a defense to each of the allegations.

**WHEREFORE**, Nonprofit Emergency Service of Beaver County, Inc. t/d/b/a Medic Rescue respectfully requests that the Commission grant these Preliminary Objections, require the Bureau of Transportation and Safety to file a more specific pleading containing all factual allegations in its possession, including specifically listing and describing with specificity which transports on each day it is referring to, what specifically the Respondent charged each patient, and how specifically this contradicts what is stated in the Respondent's tariffs, and grant such other relief as it deems appropriate.

Respectfully submitted,

Dated: June 29, 2010



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Counsel for Respondent, Nonprofit  
Emergency Service of Beaver County, Inc.  
t/d/b/a Medic Rescue.

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission	:	
Bureau of Transportation and Safety	:	
	:	
v.	:	Docket No. C-2010-2150051
	:	
Non Profit Emergency Service of	:	
Beaver County, Inc.	:	
t/d/b/a Medic Rescue	:	

**CERTIFICATE OF SERVICE**

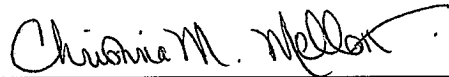
I hereby certify that I have on this date served a copy of the foregoing Preliminary Objections of Non Profit Emergency Service of Beaver County, Inc. t/d/b/a Medic Rescue upon the persons listed below via first class mail, postage prepaid in accordance with the provisions of 52 Pa. Code § 1.54:

Wendy J. Keezel, Chief of Enforcement  
Pennsylvania Public Utility Commission  
Motor Carrier Services & Enforcement Division  
Bureau of Transportation and Safety  
P.O Box 3265  
Harrisburg, PA 17105-3265

and

Chief Administrative Law Judge  
Office of Administrative Law Judge  
Pennsylvania Public Utility Commission  
P.O. Box 3265  
Harrisburg, PA 17105-3265

Dated: June 29, 2010



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Counsel for Nonprofit Emergency Service of  
Beaver County, Inc. t/d/b/a Medic Rescue.