



COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
P.O. BOX 3265, HARRISBURG, PA 17105-3265

IN REPLY PLEASE
REFER TO OUR FILE

BP8# 2146545

November 12, 2010

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

**Re: Pennsylvania Public Utility Commission, Bureau of Transportation
and Safety v. Jetway Transport, Inc., t/a Main Line Taxi
Docket No. C-2010-2146545**

Dear Ms. Chiavetta:

Enclosed for filing are the original and three copies of the Settlement Agreement on behalf of the Bureau of Transportation & Safety in the above-captioned proceeding. As evidence by the enclosed certificate of service, all parties have been served as indicated.

If you have any further questions regarding this matter, please contact me at 717-787-5262.

Sincerely,

R. K. Smith, Jr.
Assistant Counsel

Enclosures

cc: As per Certificate of Service

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BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

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Pennsylvania Public Utility Commission, :
Bureau of Transportation & Safety :

PA P.U.C.
LAW BUREAU

Complainant :

v. :

Docket No. C-2010-2146545

Jetway Transport, Inc., t/a :
Main Line Taxi :

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PA P.U.C.

Respondent :

SETTLEMENT AGREEMENT

THIS AGREEMENT is by the Pennsylvania Public Utility Commission's Law Bureau (Law Bureau), representing the Commission's Bureau of Transportation and Safety (BTS), through Assistant Counsel R. K. Smith, Jr. and Jetway Transport, Inc., t/a Main Line Taxi (Respondent), through its president, Yehuda Avraham, in the above-captioned proceeding. In pursuance of this Agreement, the Law Bureau, representing BTS, and the Respondent stipulate as follows:

I. Background and Summary of Proceedings

1. The parties to this Settlement Agreement are BTS, represented by the Law Bureau, P.O. Box 3265, Harrisburg, PA 17105-3265, and the Respondent, Jetway Transport, Inc., t/a Main Line Taxi, which maintains its principal place of business at 908 Dekalb Street, Bridgeport, PA 19405.

2. On the date of the violations alleged in this complaint, the Respondent held a certificate of public convenience issued by this Commission. The Respondent's certificate of public convenience was granted on December 11, 2006, at Application Docket No. A-00122951.

3. Pursuant to its enforcement responsibilities, the Commission's Bureau of Transportation and Safety (BTS) initiated the above captioned complaint against the Respondent. Respondent filed an Answer to the complaint.

4. BTS alleged at paragraph 4 that the Respondent, by seven separate advertisements on its internet website, held itself out to provide service in territories not authorized by its certificate of public convenience. BTS alleged further that these seven advertisements did not include Respondent's certificate number. By holding out to provide service in areas not authorized by its certificate, Respondent violated 66 Pa. C.S. Section 1102. By not displaying its certificate number in its advertisements, Respondent violated 52 Pa. Code Section 21.2. BTS requested that the Commission assess a \$2,150.00 civil penalty against Respondent for these violations.

II Settlement Terms

5. The Respondent and BTS, represented by the Law Bureau, intending to be legally bound, desire to conclude this litigation and agree to stipulate as to the following terms:

In recognition of the cost of further litigation, the time and expense of holding a hearing, and the merits of the parties' respective positions, the parties have entered into

negotiations and have agreed to settle the complaint according to the terms and conditions set forth herein.

a. The Respondent agrees that it committed the violations detailed in paragraph 4 and agrees to pay a civil penalty of \$1,000.00.

b. The Respondent agrees to comply with the Public Utility Code and the Commission's regulations and orders in the future and take appropriate steps to ensure future compliance.

6. The Respondent and BTS, represented by The Law Bureau, believe that this Agreement is in the public interest, and therefore will request that the Commission approve this Settlement Agreement as in the public interest. This Agreement is expressly conditioned upon the Commission's approval under applicable public interest standards without modification, addition, or deletion of any term or condition herein. If the Commission fails to approve this Agreement, by tentative or final order, or any of the terms or conditions set forth herein, without modification, addition, or deletion, then either Party may elect to withdraw from this Agreement by filing a response to the tentative or final order within fifteen (15) days of the date that the tentative or final order is entered. None of the provisions of this Agreement shall be considered binding upon the Parties if such a response is filed.

III. Statement in Support of Settlement

Pursuant to our Regulations at 52 Pa. Code § 5.231, it is the Commission's policy to promote settlements. However, the Commission must review proposed settlements to

determine whether the terms are in the public interest. *Pennsylvania Public Utility Commission v. Philadelphia Gas Works*, M-00031768 (Order entered January 7, 2004).

7. In *Joseph A. Rosi v. Bell-Atlantic-Pennsylvania, Inc.*, C-00992409 (March 16, 2000), the Commission adopted standards that are to be applied in determining the amount of civil penalties in slamming cases. The Commission subsequently determined that all violations of the Public Utility Code and Commission regulations shall be subject to review under the standards enunciated in *Rosi. Pa. P.U.C. v. NCIC Operator Services*, M-00001440 (December 21, 2000). BTS and Respondent submit that this Settlement Agreement complies with the requirements set forth in *Rosi* and that the terms of this Agreement are in the public interest.

8. The parties further assert that approval of this Settlement is consistent with the Commission's Policy Statement regarding factors and standards for evaluating litigated and settled proceedings at 52 Pa. Code § 69.1201.¹ Under this policy statement, while many of the same factors and standards may still be considered in both litigated and settled cases, the Commission specifically recognized that in settled cases the parties "will be afforded flexibility in reaching amicable resolutions to complaints and other matters so long as the settlement is in the public interest." 52 Pa. Code § 69.1201(b). The ten factors of the Policy Statement, as applied to this case are as follows:

9. The first factor to be considered under the policy statement is whether Respondent's actions amounted to willful fraud or misrepresentation, or were merely

¹ This policy statement became effective upon publication in the *Pennsylvania Bulletin* on December 22, 2007, at 37 Pa. Bull. 6755.

administrative or technical errors. 52 Pa. Code § 69.1201(c)(1). The violations committed by the Respondent here should not be deemed willful fraud or misrepresentation.

10. The second factor to be considered under the policy statement is whether the resulting consequences of the Respondent's actions were of a serious nature. 52 Pa. Code § 69.1201(c)(2). Respondent has in fact removed all seven advertisements that offered service in areas not authorized by its certificate of public convenience. Respondent has also assured the Commission that all of its future advertisements will include its PUC certificate number.

11. The third factor to be considered under the policy statement is whether the Respondent's conduct was intentional or negligent. 52 Pa. Code § 69.1201(c)(3). "This factor may only be considered in evaluating litigated cases." *Id.* The Respondent's conduct in this case should be deemed unintentional.

12. The fourth factor to be considered under the policy statement is whether the Respondent has made efforts to change its practices and procedures to prevent similar conduct in the future. 52 Pa. Code § 69.1201(c)(4). As stated in paragraph ten, all seven advertisements offering service in areas not authorized by its certificate have been removed. Furthermore, Respondent has assured the Commission that all future advertisements will include its PUC certificate number.

13. The fifth factor to be considered under the policy statement relates to the number of customers affected by the Respondent's actions and the duration of its violations. 52 Pa. Code § 69.1201(c)(5). It was not ascertained how many customers

were affected by Respondent's advertisements or the duration of this unauthorized activity.

14. The sixth factor to be considered under the policy statement relates to the Respondent's compliance history. 52 Pa. Code § 69.1201(c)(6). The Respondent has a satisfactory compliance history with the Public Utility Code and the Commission's regulations.

15. The seventh factor to be considered under the policy statement relates to whether the Respondent cooperated with the Commission's investigation. 52 Pa. Code § 69.1201(c)(7). The Respondent fully cooperated with the Commission's staff in this proceeding both during the investigation stage and during settlement discussions.

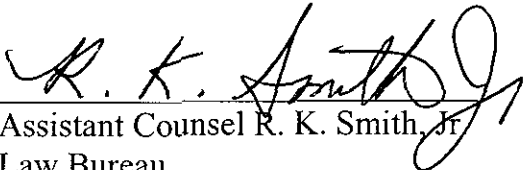
Consistent civil penalties are a reliable method for bringing utilities into compliance with the Public Utility Code and Commission regulations. The primary purpose of a fine is to secure future compliance. The Law Bureau submits that the Respondent's payment of the agreed upon \$1,000.00 civil penalty constitutes a reasonable and appropriate resolution of the merits of this proceeding.

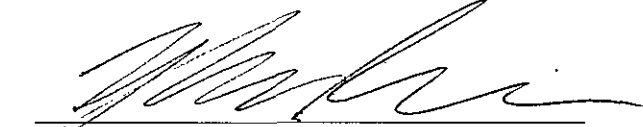
16. The ninth factor to be considered under the policy statement relates to past Commission decisions in similar matters. This Agreement is consistent with prior decisions because it is appropriate based upon the circumstances of this case.

WHEREFORE, because the Agreement addresses and attempts to remedy all allegations raised in this matter, the Law Bureau, Bureau of Transportation and Safety and the Respondent request that the Commission adopt an order approving the terms of this Agreement as being in the public interest.

Date: 11/12/2010

Date: 11/2/10


Assistant Counsel R. K. Smith, Jr.
Law Bureau
Pennsylvania Public Utility Commission


Yehuda Avraham, President
Jetway Transport, Inc., t/a
Main Line Taxi 11/2/10

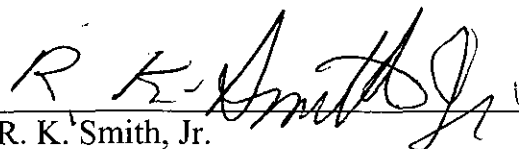
CERTIFICATE OF SERVICE

I hereby certify that I am this day serving the foregoing documents in accordance with the requirements of 52 Pa. Code § 1.54 *et seq.* (relating to service by a participant).

Notification by first class mail addressed as follows:

ALJ Cynthia W. Fordham
Office of Administrative Law Judge
Pennsylvania Public Utility Commission
Suite 4063
801 Market Street
Philadelphia, PA 19107

Yehuda Avraham, President
Jetway Transport, Inc.,
t/a Main Line Taxi
908 Dekalb Pike
Bridgeport, PA 19405



R. K. Smith, Jr.
Assistant Counsel

P.O. Box 3265
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Dated: November 12, 2010

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