



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

IN REPLY PLEASE
REFER TO OUR FILE

Bp8# 2180244

December 30, 2010

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

**Re: Pennsylvania Public Utility Commission, Bureau Of
Transportation & Safety v. Yellow Cab of Pittsburgh;
Docket No. C-2010-2180244**

Dear Ms. Chiavetta:

Enclosed are the original and three copies of the Reply to New Matter on behalf of the Law Bureau Prosecutory Staff 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

RECEIVED
2010 DEC 30 AM 11:39
PA PUC
SECRETARY'S BUREAU

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission :
Bureau of Transportation and Safety :
: **Complainant** :
: :
: **v.** :
: **Yellow Cab Company of Pittsburgh** :
: **Respondent** :

Docket No. C-2010-2180244

RECEIVED
2010 DEC 30 AM 11:39
PUC
SECRETARY'S BUREAU

REPLY TO NEW MATTER

AND NOW this 30th day of December 2010, comes the Law Bureau of the Pennsylvania Public Utility Commission, on behalf of the Commission's Bureau of Transportation and Safety (BTS), represented by its attorney, R. K. Smith, Jr., Assistant Counsel, to file its Reply to New Matter raised in the Answer of Yellow Cab Company of Pittsburgh, Respondent in the complaint proceeding docketed at C-2010-2180244. The Law Bureau submits that Respondent's request to enter judgment in its favor by dismissing the captioned complaint is not justified and should be denied by the Commission for the following reasons:

9. Denied. Respondent asserts that the allegations set forth in the complaint constitute hearsay and are inherently unreliable and an improper foundation upon which to base the captioned complaint. To the contrary, the material averments in the complaint are based on statements provided to the Commission's Bureau of Transportation and

Safety by Mr. Terry Griffith and Mr. Greg Sickora, residents of the Commonwealth of Pennsylvania, that were unlawfully refused taxicab service by one of Respondent's taxicab drivers on May 28, 2010. Being residents of the Commonwealth, both Mr. Griffith and Mr. Sickora are in a position to testify at an evidentiary hearing before a Commission Administrative Law Judge, if this matter cannot be amicably resolved by way of a formal settlement agreement, that they were unlawfully refused transportation service on May 28, 2010 by Respondent's driver of taxicab number 331.

10. Denied. At Paragraph three of its complaint BTS recites the fact that the third taxicab in the feeder line at the Pittsburgh International Airport promptly transported the Griffith party to their requested destination. Nowhere in Paragraph three does BTS state that the taxicab that provided service to the Griffith party was operated by Respondent. Even if the taxicab that ultimately provided service to the Griffith party was operated by Respondent, this would not absolve Respondent from the fact that it is legally responsible for the failure of taxicab number 331 to have provided taxicab service to the Griffith party on May 28, 2010.

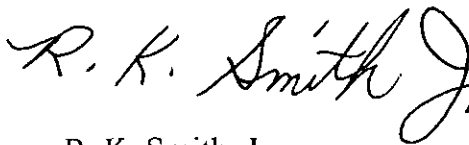
11. Denied. Respondent claims that BTS failed to timely notify Respondent that there were issues regarding cab 331's activities on May 28, 2010 and that such a delay may have resulted in the loss of essential data that would enable the carrier to effectively defend itself in court. There is no validity whatsoever to this argument. It is undisputed that Commission Enforcement Officer Gary Double, Jr. met with Paul Caliari, Respondent's Safety Director, on June 21, 2010 to address the activities of cab 331 on

May 28, 2010. By meeting with Respondent's representative within three weeks of the alleged violation of the Public Utility Code, BTS promptly brought these service issues to Respondent's attention in a timely manner. Furthermore, Respondent is also well aware that 52 Pa. Code Section 29.313(c) mandates that all call or demand certificated carriers in the Commonwealth retain log their sheets for a period of two years.

12. Denied. BTS initiated the captioned complaint on November 15, 2010, less than six months after the alleged violation of the Public Utility Code occurred on May 28, 2010. Since BTS filed its complaint in an expeditious manner, the defense of laches does not apply in this case.

AND NOW, in consideration of the foregoing, the Law Bureau respectfully requests that the Respondent's request for the Commission to enter judgment in its behalf by dismissing the captioned complaint should be denied.

Respectfully submitted,



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

RECEIVED
2010 DEC 30 AM 11:40
PA PUC
SECRETARY'S BUREAU

P.O. Box 3265
Harrisburg, PA 17105-3265

Date: December 30, 2010

VERIFICATION

I, Wendy Keezel, Chief of Enforcement of the Bureau of Transportation and Safety, hereby verify that the factual averments set forth in the Bureau's Reply to New Matter are true to the best of my personal knowledge and belief.



Wendy Keezel, Chief of Enforcement of the
Bureau of Transportation & Safety
PA. Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

(717) 783-5010

Date: December 30, 2010

RECEIVED
2010 DEC 30 AM 11:40
PA PUC
SECRETARY'S BUREAU

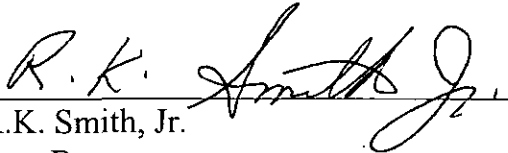
CERTIFICATE OF SERVICE

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:

Honorable Charles Rainey
Chief Administrative Law Judge
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105
(*Hand delivered*)

Ray Middleman, Esquire
Malone Middleman, P.C.
117 VIP Drive, Suite 310
Wexford, PA 15090



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

P.O. Box 3265
Harrisburg, PA 17105-3265

DATE: December 30, 2010

RECEIVED
2010 DEC 30 AM 11:40
PA PUC
SECRETARY'S BUREAU