



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

IN REPLY PLEASE
REFER TO OUR FILE

March 1, 2011

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. Enterprise Limousine, Inc.
Docket No. C-2010-2190070

Dear Secretary Chiavetta:

Enclosed please find an original and three (3) copies of the Settlement Agreement on behalf of the Bureau of Transportation and Safety in the above-captioned proceeding.

The Office of Special Assistants should prepare a proposed opinion and order for Commission consideration.

If you have further questions regarding this matter, please do not hesitate to contact me at (717) 772-8839.

Sincerely,

Patricia T. Wiedt
Assistant Counsel

Enclosures

cc: Cheryl Walker Davis, Director OSA
Michael Hoffman, Director TAS
Robert Bingaman, TAS

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BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

PENNSYLVANIA PUBLIC UTILITY :
COMMISSION, BUREAU OF :
TRANSPORTATION AND SAFETY :

v. :

ENTERPRISE LIMOUSINE, INC. :
44 NANCY DRIVE :
RICHBORO, PA 18954 :

Docket No. C-2010-2190070

PA P.U.C.
LAW BUREAU

PA P.U.C.
SECRETARY'S BUREAU

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SETTLEMENT AGREEMENT

THIS AGREEMENT is by and between the Commission's Law Bureau, through Assistant Counsel, Patricia T. Wiedt, representing the Bureau of Transportation and Safety and Enterprise Limousine, Inc., in the above captioned complaint proceeding initiated by the Commission's Bureau of Transportation and Safety. In pursuance of this Agreement, the parties stipulate as follows:

I. Introduction

1. The parties to this Settlement Agreement ("Agreement") are the Pennsylvania Public Utility Commission's Bureau of Transportation and Safety, P. O. Box 3265, Harrisburg, PA 17105-3265, and Enterprise Limousine, Inc. ("Enterprise"), 44 Nancy Drive, Richboro, PA 18954. Enterprise is a certificated limousine company in Pennsylvania, providing limousine service in the Philadelphia area.

2. Enterprise was issued a certificate of public convenience by the Commission on December 10, 2008, at Application Docket No. A-6410077, for limousine authority.

II. Complaint

3. The Bureau of Transportation and Safety (“BTS”) filed a Formal Complaint against Enterprise at Complaint Docket No. C-2010-2190070. This complaint alleged that Enterprise violated 52 Pa. Code § 29.333(d) by failing to provide a current vehicle list to the Commission.

4. Elena Sherman, President of Enterprise filed an Answer to the Complaint including a list of its current vehicles as of November 7, 2010. She further indicated that she would be sending a copy of her fleet registration cards. She advised that she did not know that a list of vehicles was required.

III. Bureau of Transportation and Safety Position

5. Pursuant to its enforcement responsibilities, the Commission’s Bureau of Transportation and Safety initiated a complaint against Enterprise as referenced above. The total penalty requested was \$250. As indicated in the complaint, BTS alleged that Enterprise had violated the Pennsylvania Public Utility Code and Commission regulations involving failure to provide the Commission with a current list of all of its vehicles under its limousine authority in violation of 52 Pa. Code § 29.333(d).

IV. Enterprise Position

6. In its Answer to the Complaint, Enterprise mailed in a current list of its vehicles to comply with 52 Pa. Code § 29.333(d). Enterprise alleged that it was unaware of this

requirement. However, now that she was aware of the requirement, Elena Sherman, President of Enterprise, indicated that she would send in a current list of vehicles annually as required by 52 Pa. Code § 29.333(d).

V. Settlement

7. On February 2, 2011, the parties agreed to settle the complaint with a civil penalty in the amount of \$50.00.

8. Law Bureau and Enterprise 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 by tentative or final order this Agreement, 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.

VI. Statement in Support of Settlement

9. The approval of this Settlement is consistent with the factors and standards for evaluating litigated and settled proceedings contained in the Commission's Final Policy Statement for Litigated and Settled Proceedings Involving Violations of the Public Utility Code

and Commission Regulations, M-00051875, December 22, 2007, Pa. Bulletin, 37 Pa. Bulletin 6755. *Joseph A. Rosi v. Bell Atlantic-Pennsylvania, Inc. and Sprint Communications, Co., L.P.*, C-009992409 (Order entered March 16, 2000).

The ten factors of the Policy Statement as applied to this case are as follows:

10. Conduct of a Serious Nature: Enterprise did not engage in any willful fraud or misrepresentation or other conduct of a serious nature. The alleged conduct involved was not egregious, and warrants a lower penalty.

11. Resulting Consequences of a Serious Nature: This does not apply.

12. Intent: The alleged violation involving failure to provide the Commission with a current vehicle list may not have been intentional.

13. Preventive measures: Enterprise and BTS have agreed to the settlement and the parties believe this settlement should reduce the potential for violations of the Public Utility Code and Commission regulations.

14. Number of customers affected and duration: No customers were alleged to have been affected in the complaint set forth above.

15. Compliance: Enterprise has an excellent compliance history with the Public Utility Code and Commission regulations.

16. Cooperation with Commission: Enterprise cooperated with Commission staff in this proceeding. Enterprise was responsive and negotiated a settlement of the complaint.

17. Deterrence: The Law Bureau submits that lowering the civil penalty to \$50.00 constitutes an appropriate compromise and settlement of the disputed complaint. Enterprise alleged that it did not know of the Commission's requirement to provide a current vehicle list.

Enterprise provided a current copy of its vehicle list with its Answer and indicated a willingness to comply with this regulation going forward.

18. Past decisions: This agreement is consistent with prior decisions because it is appropriate based upon the circumstances of this case.

19. Other relevant factors: There are no other relevant factors in this case.

20. Nothing contained in this Agreement may be used or construed by any person as an admission of any fact or liability by Enterprise. This Agreement is proposed by the Parties without any admission against, or prejudice to, any position which any Party may adopt during any subsequent administrative or court proceeding of whatever nature.

WHEREFORE, because the Agreement addresses and remedies all allegations raised in this matter, the Bureau of Transportation and Safety and Enterprise Limousine, Inc. request that the Commission adopt an order approving the terms of this Agreement as being in the public interest.

Date: February 8, 2011

Patricia J. Wiedt

Patricia T. Wiedt, Assistant Counsel
Pennsylvania Public Utility Commission
Bureau of Transportation and Safety

Date: Feb. 23, 2011

Elena Sherman

Elena Sherman, President
Enterprise Limousine, Inc.

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