



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

IN REPLY PLEASE
REFER TO OUR FILE
C-2010-2209110

April 1, 2011

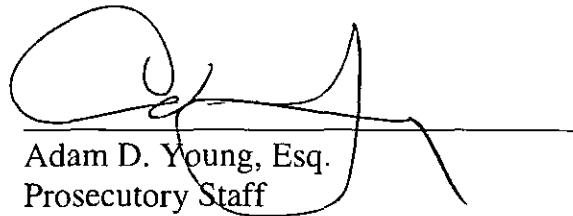
Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

Re: Pa. PUC v. North Star Leasing, Inc., Docket No. C-2010-2209110

Dear Secretary Chiavetta:

Enclosed for filing are an original and three (3) copies of a Settlement Agreement between the parties in the above-referenced matter. Law Bureau Prosecutory Staff is requesting that this matter be forwarded to the Office of Special Assistants. Thank you for your cooperation in this matter.

Very truly yours,



Adam D. Young, Esq.
Prosecutory Staff

Enclosure

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**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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

Complainant :

v. :

North Star Leasing, Inc., :

Respondent :

Docket No. C-2010-2209110

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SETTLEMENT AGREEMENT

THIS AGREEMENT is between the Pennsylvania Public Utility Commission's Law Bureau Prosecutory Staff (Prosecutory Staff), representing the Commission's Bureau of Transportation and Safety (BTS), through Assistant Counsel, Adam D. Young, and North Star Leasing, Inc. (Respondent), in the above-captioned proceeding. In pursuance of this Agreement, Prosecutory Staff, 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 Prosecutory Staff, P.O. Box 3265, Harrisburg, PA 17105-3265, and the Respondent, North Star Leasing, Inc., which maintains its principal place of business at P.O. Box 66, Boswell, PA 15531.

2. During the period 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 April 3, 1984, at Application Docket No. A-00104712.

3. Pursuant to its enforcement responsibilities, the Commission's BTS initiated the above-captioned complaint against the Respondent on November 6, 2010. The alleged violations detailed in the complaint aver that Respondent committed violations of 66 Pa. C.S. § 512, 52 Pa. Code § 32.2(c), and 52 Pa. Code § 32.11(a), 32.12(a) or 32.12(a) as follows:

- North Star Leasing, Inc. failed to maintain evidence of liability insurance on file with the Commission. A suspension letter was first sent to North Star Leasing, Inc. Form E was then filed with the Commission without the letters "INC" of the company name. The insurance information was sent back to the insurance company and the name was corrected. The correct information was received by the Commission on December 27, 2010.

4. BTS alleged that Respondent, by failing to maintain evidence of liability insurance on file with the Commission, violated 66 Pa. C.S. § 512, 52 Pa. Code § 32.2(c), and 52 Pa. Code § 32.11(a), 32.12(a) or 32.12(a) of the Public utility Code.

5. The Bureau of Transportation and Safety Prosecutory Staff's proposed civil penalty is \$500.00.

II. Settlement Terms

6. The Respondent and BTS, represented by the Prosecutory Staff, 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 to pay a civil penalty of \$300.00 in settlement of a disputed claim. Respondent's payment of this civil penalty is not an admission of liability.

7. The Respondent and BTS, represented by the Prosecutory Staff, believe that this Agreement is in the public interest, and therefore will request that the Commission approve this Settlement Agreement as being 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).

8. 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.

9. 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

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

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 addressed herein.

10. The first factor to be considered under the policy statement is whether Respondent’s actions amounted to willful fraud or misrepresentation, or were merely 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, as the failure to maintain evidence of liability insurance is more akin to negligent conduct.

11. 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). This violation should be not be deemed serious or have lasting consequences since the violation only occurred on two occasions.

12. 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.* Although this is not a litigated case, Respondent’s conduct in this case should be deemed unintentional.

13. 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). The Respondent has agreed to be more attentive in seeing that this violation does not occur in the future.

14. 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). The public was not adversely affected by the Respondent's failure to maintain evidence of liability insurance on file with the Commission.

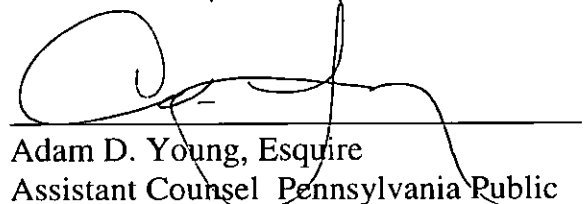
15. The sixth factor to be considered under the policy statement relates to the Respondent's compliance history. 52 Pa. Code § 69.1201(c)(6). The Respondent has a satisfactory compliance history with the Public Utility Code and the Commission's regulations.

16. The seventh and eighth factors to be considered under the policy statement relate to whether the Respondent cooperated with the Commission's investigation and the appropriate penalty amount. 52 Pa. Code § 69.1201(c)(7) and (8). The Respondent fully cooperated with the Commission's staff in this proceeding during settlement discussions. Furthermore, 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. Prosecutory Staff submits that the Respondent's payment of the agreed upon \$300.00 civil penalty per violation constitutes a reasonable and appropriate settlement of this proceeding.


17. 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 Prosecutory Staff, on behalf of the 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: 4/1/2011


Adam D. Young, Esquire
Assistant Counsel Pennsylvania Public
Utility Commission

Date: 3/30/11


George A. Pison, Jr., Secretary/Treasurer
North Star Leasing, Inc.

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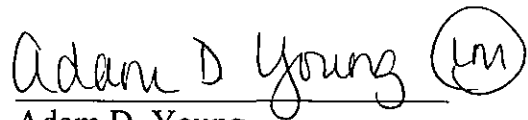
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CERTIFICATE OF SERVICE

I hereby certify that I am this day servicing the foregoing document, Settlement Agreement, upon the persons listed and in the manner indicated below:

Via First-Class Mail:

North Star Leasing, Inc.
PO Box 66
Boswell, PA 15531



Adam D. Young
Assistant Counsel
Attorney ID # 91822
(Counsel for the Pennsylvania Public
Utility Commission)

P.O. Box 3265
Harrisburg, PA 17105-3265
(717) 787-5000

Dated: April 1, 2011

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