



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

IN REPLY PLEASE
REFER TO OUR FILE

May 16, 2011

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

Re: C-2010-2177857

Re: Pennsylvania Public Utility Commission v. Yellow Cab Company of
Pittsburgh

Answer to Combined Interrogatories and Request for Production of
Documents

Dear Secretary Chiavetta:

Enclosed, please find the Bureau of Transportation and Safety's Answer to
Combined Interrogatories and Request for Production of Documents. A Certificate of
Service is attached, pursuant to 52 Pa. Code §1.57 and §1.58.

Respectfully submitted,

Heidi Wushinske, Assistant Counsel
Law Bureau
For Bureau of Transportation and Safety

Enclosure

Pc:

Robert Bingaman, Compliance Office Manager
Motor Carrier Services and Enforcement Division

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**BEFORE THE PENNSYLVANIA
PUBLIC UTILITY COMMISSION**

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Re: Pennsylvania Public Utility :
Commission v. Yellow Cab Company :
of Pittsburgh :
: Docket No. C-20102177857
:
:
:

**ANSWER TO
COMBINED INTERROGATORIES AND REQUEST FOR
PRODUCTION OF DOCUMENTS**

AND NOW, comes the Bureau of Transportation and Safety (BTS), by and through its counsel, Heidi Wushinske, and files the within Answer as set forth below.

1. a. BTS asserts that no answer is required. Pursuant to 52 Pa. Code § 5.321(c), discovery must be “relevant to the subject matter involved in the pending action.” Although the customers who initiated this complaint with the Commission alleged that the driver looked dishelved, BTS did not charge Respondent with any violations regarding this allegation.
- b. BTS asserts that no answer is required. Pursuant to 52 Pa. Code § 5.321(c), discovery must be “relevant to the subject matter involved in the pending action.” Although the customers who initiated this complaint with the Commission alleged that the driver had a strong odor, BTS did not charge Respondent with any violations regarding this allegation. By

way of further answer, the customers alleged that the driver smelled like “body odor.”

- c. BTS asserts that no answer is required. Pursuant to 52 Pa. Code § 5.321(c), discovery must be “relevant to the subject matter involved in the pending action.” Although the customers who initiated this complaint with the Commission alleged that the driver swerved in and out of traffic, BTS did not charge Respondent with any violations regarding this allegation.
- d. BTS asserts that no answer is required. Pursuant to 52 Pa. Code § 5.321(c), discovery must be “relevant to the subject matter involved in the pending action.” Although the customers who initiated this complaint with the Commission alleged that the driver drove through a red light, BTS did not charge Respondent with any violations regarding this allegation.
- e. BTS asserts that no answer is required. Pursuant to 52 Pa. Code § 5.321(c), discovery must be “relevant to the subject matter involved in the pending action.” Although the customers who initiated this complaint with the Commission alleged that the dispatcher advised them that he or she had no way of contacting the driver, BTS did not charge Respondent with any violations regarding this allegation.

2. Larry Brzeczowski
5262 Fiegle Road
Pendleton, NY 14094
716-286-8786

Paul Caliarì
Yellow Cab Company of Pittsburgh
1301 Beaver Avenue
Pittsburgh, PA 15233
412-321-8100

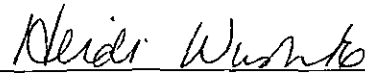
Michael Costanzo
Yellow Cab Company of Pittsburgh
1301 Beaver Avenue
Pittsburgh, PA 15233
412-321-8100

Officer Gary Double, Jr.
Pennsylvania Public Utility Commission
Bureau of Transportation and Safety
245 William Pitt Way
Pittsburgh, PA 15238
412-565-3553

3. a. I am in possession of a complaint from Larry Brzeczowski and a report from Officer Double. Paul Caliarì and Michael Costanzo made oral statements to Officer Double, which are contained in his report.
- b. Copies of Officer Double's report and Larry Brzeczowski's complaint are attached to this Answer as attachments A and B respectively.
- c. I am not in possession of any other written summaries.
- d. N/A
4. The Commonwealth plans to call Officer Gary Double, Jr. and Larry Brzeczowski as witnesses in this case.
5. The driver log sheet referred to in paragraph 3 of the Commission's complaint is attached to this Answer as attachment C.
6. The driver log sheet, attached to this Answer as attachment C, is the only document provided by Yellow Cab Company of Pittsburgh to Officer Double

that is applicable to the investigation and filing of the Complaint in this matter.

Respectfully submitted,

A handwritten signature in cursive script, reading "Heidi Wushinske", is positioned above a horizontal line.

Heidi Wushinske, Assistant Counsel
Law Bureau Prosecutory Staff

A

PGH Assignment (Revised 08/04/2008)

Date Assigned to Officer: 6/10/10
Date Report Completed:

**PUC MOTOR CARRIER ENFORCEMENT DIVISION
OFFICER'S REPORT**

INITIATING OFFICE - WRO

BP8 CASE # 2177857

District: Pittsburgh	Enforcement Officer: Double
Assignment No.	Assisting Officer:
DOT No.	Utility Code:
Respondent: Yellow Cab Co. of Pittsburgh	Complainant: PUC Transportation & Safety
Address: 1825 Liverpool St. Pittsburgh, PA 15233	Address:
Phone No. 412-321-8100	Phone No.
PUC No. 49926	PUC No.
Email:	Email:

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TYPE OF REPORT

- COMPLAINT
- MEMO OF RECORD (Information regarding work assignment issued by district supervisor, or additional information from E.O. on VIR or MCSAP)
- OTHER (Please describe):

SUMMARY OF ASSIGNMENT
(Explain how assignment was initiated)

Review attached letter of complaint. Contact complainant, Mr. Brzeczowski, and obtain complete origin and destination for their trip, including cost. Also, inquire to make, model of cell phone & the phone number to his cell phone. Inquire if the carrier returned his phone to date. Then visit carrier & identify the driver for Cab 290 on 5/22/10 at 7:20 pm. Obtain his trip sheet. Advise carrier to drivers' actions. Then interview driver about the incident. Inquire with the driver about the cell phone too. Conduct safety inspection on Cab 290.

Contact complainant at the conclusion of your investigation. Complete within 30 days.

Officer's Report

This report is in reference to BP8 case #2177857. It is complaint against Yellow Cab of Pittsburgh and the driver of cab #290 for multiple poor service issues.

On June 17th, 2010 this EO spoke with the complainant, Larry Brzezckowski, over the telephone. Mr. Brzezckowski's full address is 5262 Fiegle Rd. Pendleton, NY, 14094. Mr. Brzezckowski advised that on May 22nd, 2010 he and his wife Lisa were visiting the city of Pittsburgh and was staying at the Sheraton Hotel on Carson Street. They were walking back toward the hotel and decided to catch a cab to take them to the Radisson in Greentree for a show. Mr. Brzezckowski went to the room to retrieve something and Lisa waited outside to summon a cab. Mr. Brzezckowski advised that on the way back down from the room Lisa called him and asked where he was and if he was still coming. Upon getting into the cab they advised the driver that they needed to go to the Radisson Hotel. Mr. Brzezckowski stated that the driver drove like a maniac the whole way to the Radisson. He swerved in and out of traffic, drove 10 to 20 mph over the speed limit most of the time, ran a red light and played with the radio the entire trip. The driver pulled up to the Ramada Hotel and Mr. Brzezckowski again said they were going to the Radisson Hotel. The driver gave an irritated sigh and then drove them a few more blocks to the Radisson. Upon arrival, his wife Lisa immediately got out as she was panicking/freaking due to the cabbies erratic driving. Mr. Brzezckowski paid the driver, got out and walked into the show.

Approximately 5 minutes later Mr. Brzezckowski realized that he had left his cell phone in the back seat of the cab. Mr. Brzezckowski called Yellow Cab and asked if the driver *could* return to the hotel so they could retrieve the phone. Yellow Cab dispatch advised that they have no way of contacting the driver to have him return. Mr. Brzezckowski then decided to call the cell phone and did so three times. The first two times the phone rang several times and went to voice mail, the third time the phone went directly to voice mail which meant the phone had been turned off. Mr. Brzezckowski called Yellow Cab again and asked for a supervisor and he was told there were no supervisors on duty that evening. Yellow Cab put him through to the lost and found, however they were unable to leave a message as the message box for lost and found was full. Mr.

Brzeczowski felt that after calling and speaking with the call takers several times they began to act rudely and ignorant with him.

Upon returning to their hotel they spotted the same cab and driver that had dropped them off at the Radisson. The driver remembered dropping them off, but said he didn't have their cell phone. Mr. Brzeczowski asked to check the cab for the phone and the driver permitted him. He was unable to locate the phone. He asked the driver how long after the driver dropped them off did it take him to pick up another fare. The driver reported that twenty minutes after they got out he picked up a passenger on the south side. Mr. Brzeczowski advised that his three calls to his cell phone were placed approximately 7-9 minutes after they got out of the cab. He believes the driver had to be the one that shut the phone off and that the driver is a liar.

Finally, Mr. Brzeczowski told this EO that on the way back to their room after the second encounter with the cab driver his wife, Lisa, told him that while they (Lisa and cab driver) waited for him at the hotel prior to the cab ride she was telling the cab driver how they met and got pictures with Gene Simmons from KISS earlier that night. The driver responded to her "If you think you met Gene Simmons in Pittsburgh, you're a fucking idiot".

Mr. Brzeczowski advised that the cab was cab #290 and the driver was a Caucasian male in his 50's. The driver had a dis-sheveled or messy look to him and the cab reeked of what he thought was body odor. The original cab ride took place at approximately 1920 hours and the second encounter with the driver took place sometime between 2200 and 2230 hours. Mr. Brzeczowski advised that the interior of the cab was clean; it was the odor of the cab that he was referring to in the complaint report. Mr. Brzeczowski also stated that they never asked the driver for a receipt for the trip, so the complaint that they never received a receipt is not an issue. The trip was a \$10 to \$12 fare and he remembers giving the driver a \$2 tip.

Mr. Brzeczowski advised that the cell phone is the main issue or concern that he has in this case. He works for Niagara University in Lewiston, NY and it was his University issued work phone that was lost. He has no information other than the phone is a Sprint phone (telephone # 716-609-0349). Mr. Brzeczowski was asked to get the serial number and model number of the phone and e-mail me the information. Mr.

Brzeczowski e-mailed that there was no more information (model and serial numbers) available for the phone. At this time the cell phone has not been returned to Mr. Brzeczowski. The college has since cancelled the phone so no charges or calls could be put on it.

On June 21st, 2010 this EO responded to Yellow Cab and spoke with Safety Manager Paul Caliarì. Mr. Caliarì advised that the driver at the time of the trip was Michael Costanzo. Mr. Costanzo has a PA driver's license of 19071712 and a DOB of 8/27/60. He is a daily lease driver who typically drives in the night only. In reference to driving behavior, Mr. Costanzo has had no at-fault accidents since 2005. At the time of my visit, cab #290 was being leased by another driver. GPS showed that the cab was parked and this usually means the driver is sleeping. Several calls were made to the driver's phone number with no response.

Mr. Caliarì also advised that Julie Armstrong is the lost and found coordinator for Yellow Cab and in the month of May she was on vacation for a week and prior to that she was in recovery for an operation for about six weeks. During these times the lost and found phone message system would have been full. A call was then placed to lost and found from the office and the message box was able to take messages at that time. In regards to not having a supervisor on duty, there were times when there was no supervisor coverage. At the time of this incident there were only two supervisors and coverage was not 100%. They have recently hired 2 part-time supervisors to fill in the uncovered time periods. Supervisors were on call for major incidents, but a lost cell phone would not constitute a major incident. Finally, Yellow Cab requires individuals that leave items in the cab to retrieve the item at the Yellow Cab terminal on Beaver Ave. Since the driver's are not hourly employees, it's lost money, fares, gas and time for drivers to return items left in the cab by the customers. The only other way is for the customer to pay the driver for the return trip to the customer with the item.

Mr. Caliarì advised that he would put a hold on Yellow Cab #290 for Wednesday the 23rd. The hold will keep the cab from being leased on that day and I would be able to respond to the terminal and do a safety inspection on it.

On June 22nd, 2010 this EO asked Mr. Caliari to leave a message at the Yellow Cab cash out window to have Michael Costanzo contact me. This EO had been unsuccessful in contacting Mr. Costanzo at his home number.

On June 23rd, 2010 this EO spoke with Michael Costanzo on the telephone. Same advised that he remembers the complainants because they stopped him at Station Square and asked to search the cab for the lost phone. He allowed them, but they did not find the phone. They asked if he had it and he told them no. Mr. Costanzo advised that he never saw the phone, never found it and thus never returned it or gave it to lost and found. Nor did he ever hear the phone ringing in the back seat of the car. Mr. Costanzo advised that his driving record is good and that he was not driving erratically that night. Mr. Costanzo stated that he thinks the complainants are upset over losing the phone and they are making the allegations up because they think he did something with it.

On June 23rd Mr. Caliari called to advise me that cab 290 has not yet been returned by the leasing driver. He is past his lease and has been locked out of the system. If the cab is not returned or if Yellow Cab does not repo the cab then it will be reported to the police as a stolen vehicle. Mr. Caliari advised that he would call me as soon as the cab is located and it won't be touched or returned to service until it is inspected by me.

This EO was contacted by Mr. Caliari on June 24th. Same advised that the tow truck will be bringing in cab #290. The cab will be held until Friday morning when I will be able to inspect it.

On Friday, June 25th, 2010 this EO responded to Yellow Cab and conducted a safety inspection of cab #290. A vehicle in-service form was not completed as the cab was held out of service until after this EO could inspect it. The inspection was a terminal inspection so no previous trip sheet, trip sheet information or driver information was filled out on the DVCR. No violations were found during the walk around or test driving portion of the inspection. Safety Manager Paul Caliari operated the lights and test drove the vehicle for the inspection. The interior of the vehicle, although not vacuumed clean, did not appear dirty or unsanitary in any manner and there was no strong odor or smell from the inside of the cab. Mr. Caliari signed for Yellow Cab's copy of the DVCR.

This EO's investigation found that the driver in this case, Michael Costanzo had a previous complaint in the Pittsburgh Office for similar behaviors. It was an incident that occurred on 11/11/2006 under report #491-06 for driver not using the meter, rude and going to the wrong location. This EO feels that Compliance Review should review this previous complaint to see if it was sustained to help in determining if this case does meet the criteria for discourteous driver and unreasonable service. The driver in this case advises that he never had the phone and he has no idea where it is. The complainants believe the driver is a liar, who provided a discourteous service, does not drive safely and may possible have a body odor issue.

Upon review of the driver's trip sheet and to the extent of this EO's knowledge of the regulations I found the following violations:

1. Title 52 29.313(2): Shortest route to be followed. Driver took passengers to the wrong hotel originally (Ramada in Greentree instead of the Radisson)
2. Title 52 29.313I (2): No end time noted on the trip sheet.
3. Title 52 29.313I (4): Origin and destination of each fare including locations to be marked with street name and # or landmarks (trip sheet has generalities only i.e. DT and West End). The driver also failed to log the complainant's trip. Between 1841 and 1951 hours no trips were logged (complainants state the trip occurred roughly at 1920 hours). The 1951 hours fare also went to Greentree, however only 1 passenger was marked in the passenger column. The complainants had a group of two.

At the conclusion of the investigation Mr. Brzeczowski was notified and a message left advising the report was complete and forwarded to Harrisburg.

Attachments info-mapped by WRO Clerk

1. DVCR #410-1033
2. Trip sheet #290 for 5/22/10

Gary Double Jr.

June 25, 2010

Badge #4

DRIVER/VEHICLE COMPLIANCE REPORT
PENNSYLVANIA PUBLIC UTILITY COMMISSION
Bureau of Transportation & Safety – Motor Carrier Services & Enforcement Division
P. O. Box 3265, Harrisburg, PA 17105-3265

PART A

01 DATE 06/25/2010	02 TIME STARTED 0925 hrs	03 STREET/ROUTE NO. 1301 Beaver Ave.	04 BORO, CITY, TWP. City of PGH	05 COUNTY Allegheny
06 RESPONSIBLE CARRIER NAME The Yellow Cab Co. of Pittsburgh				07 PUC NUMBER ON VEHICLE <input type="checkbox"/> None Required A49926
08 ADDRESS 1825 Liverpool St. Pittsburgh, PA 15233				09 US DOT NUMBER None
10 OPERATOR'S NAME & DOB N/A			11 OLN/STATE N/A	
12 ADDRESS N/A				13 CDL OR LIC, CLASS. END. N/A
14 YR, MAKE/TYPE OF POWER UNIT 2004 Ford Taxi	15 REGISTRATION NO. TX37908	16 STATE PA	17 V.I.N. 2FAHP71W24X172666	18 CO. NO. 290
19 YR, MAKE OF TRAILER/TYPE ST	20 REGISTRATION NO.	21 STATE	22 V.I.N.	23 CO. NO.
24 YR, MAKE OF TRAILER/TYPE ST	25 REGISTRATION NO.	26 STATE	27 V.I.N.	28 CO. NO.
29 NAME MARKINGS ON VEHICLE <input type="checkbox"/> None Displayed Company name, PUC #, telephone # and unit #			30 ODOMETER READING 223899	
31 POWER UNIT LEASED <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	32 LEASE ON BOARD <input type="checkbox"/> YES <input type="checkbox"/> NO <input checked="" type="checkbox"/> N/A	33. OBTAINED LEASE <input type="checkbox"/> YES <input type="checkbox"/> NO <input checked="" type="checkbox"/> N/A		34 ISSUED RECEIPT <input type="checkbox"/> YES <input type="checkbox"/> NO <input checked="" type="checkbox"/> N/A
35 LEASE INFORMATION a. WHO PAYS DRIVER'S WAGES? <u>N/A</u> b. WHO PAYS SOCIAL SECURITY? <u>N/A</u> c. WHO HAS DIRECT CONTROL OF THE TRANSPORTATION? <u>N/A</u> d. WHO PAYS OPERATING COST OF VEHICLE? <u>N/A</u>				
36 SHIPPING DOCUMENT NO. Terminal inspection	37 WHOSE DOCUMENT? N/A	38 DATE N/A	39 CHARACTER OF SHIPMENT N/A	
40 SHIPPER'S NAME AND ADDRESS N/A				
41 ORIGIN OF TRIP (CITY, TWP, CO) N/A	42 INTENDED USE Passenger transportation		43 WEIGHT Seats 5	
44 CONSIGNER'S NAME & ADDRESS N/A				
45 DESTINATION OF TRIP (CITY, TWP, CO) N/A	46 COMPENSATION N/A		47 CARRIER CURRENT REGISTERED UCR <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	
48 TAXIMETER CHECK <input type="checkbox"/> PASS <input type="checkbox"/> FAIL <input checked="" type="checkbox"/> N/A	49 METER TYPE Silent 620	50 SERIAL NO. 15637		51 SEAL NO. Yes
52 SAFETY PERFORMED? <input checked="" type="checkbox"/> PUC <input type="checkbox"/> MCSAP	53 PART B VIOLATIONS (IF PUC CHECKED IN 52) <input checked="" type="checkbox"/> NO VIOLATIONS <input type="checkbox"/> VIOLATIONS SHOWN ON PART B			54 LEVEL (IF MCSAP CHECK IN 52) <input type="checkbox"/> 1 <input type="checkbox"/> 2 <input type="checkbox"/> 3 <input type="checkbox"/> 4 <input type="checkbox"/> 5
55 NAME AND BADGE NO. OF OFFICER PREPARING REPORT GARY DOUBLE JR. #4	56 MCSAP RPT # N/A	57 TIME ENDED 1000 hrs.	58 COPY RECEIVED BY Safety Manager <i>[Signature]</i>	

BFB:2177857 1

From: dcanzoneri@state.pa.us
Sent: Monday, May 24, 2010 7:35 AM
To: Mayberry, Catherine; Canzoneri, David B; Flynn, Maureen
Cc: Canzoneri, David B
Subject: Taxi Complaint Form

Importance: High

Follow Up Flag: Follow up
Flag Status: Flagged

Name: Larry Brzeczowski

Street Address: 5262 fiegle rd

City:

Daytime Phone: 716-286-8786

Your e-mail address: brezski2@yahoo.com

Date: 05/22/10

Time : 7:20pm

Location of Incident : Pittsburgh PA

Taxi(PUC) Number : 290

Medallion Number :

Taxi Company : yellow cab

Driver Number : 290

Incident comments : driver called my wife an idiot, cab smelled awefull, played with radio whole ride, speeding, unsafe lane changes ETC.. took to wrong destination, left cell on back seat, called taxi # 5 minutes later to report got NO help was told they can not contact driver, was put to a voice mail full not taking messages, called back to speak with a supervisor was told I not on duty. saw same driver later asked him about my cell he denied it being left in cab. we called my cell number a few times with in 6-8 minutes after getting out of cab hoping driver would answer 3rd call to cell it had been shut off.

Nature of Incident : Operated vehicle in a dangerous manner

Nature of Incident : Driver Discourteous

Nature of Incident : Interior of vehicle not clean

Nature of Incident : Fare receipt not provided

Nature of Incident: Other Comments

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YELLOW CAB COMPANY OF PITTSBURGH

NAME OF DRIVER MICHAEL COSTANZO	CAB NO. 290	DRIVER NO. 3591	DATE 05/22/2010	START TIME 16:41
BEGINNING METER 9395	ENDING METER 9775	METER TRIPS 5	END TIME	

This document is certified to be true and correct and is carried in lieu of a copy of a lease by and between the taxicab driver (leasee) and Yellow Cab Company of Pittsburgh (Certificate holder) which lease is kept in the corporate offices at 1101 Beaver Avenue, Pittsburgh, PA 15233. This vehicle is operated exclusively in the service of Yellow Cab Company of Pittsburgh. This certificate is in lieu of a lease copy pursuant of 52 PA. Code s29.101 (2) (ii).

Driver Signature: _____

TIME	ODOMETER	ORIGIN	TIME	ODOMETER	DESTINATION	PASS.	\$ FARE
6:33	387	DT	6:41	390	West End	1	400
7:51	426	DT	8:00	430	Greenboro	1	800
8:45	453	DT	8:52	455	Mt. Wash	1	500
9:23	482	DT	9:32	485	Oakland	2	700
10:15	517	DT	10:24	521	Market Road	1	900
					7700		

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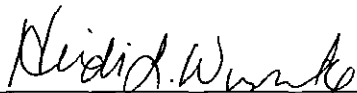
BPB: 2177857 2

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the foregoing document upon the participants, listed below, in accordance with the requirements of 52 Pa. Code §1.54, relating to service by a participant.

Paul S. Guarnieri, Esquire
Attorney for Yellow Cab of Pittsburgh
MALONE MIDDLEMAN, P.C.
117 VIP Drive, Suite 310
Wexford, PA 15090

Dated this Sixteenth Day of May, 2011.



Heidi L. Wushinske, Assistant Counsel
Law Bureau Prosecutory Staff

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