

CRAIG A. DOLL

ATTORNEY AT LAW
25 WEST SECOND STREET
P.O. Box 403
HUMMELSTOWN, PENNSYLVANIA 17036-0403
717/566-9000 FAX 717/566-9901
E-MAIL CDOLL76342@AOL.COM

August 8, 2011

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
P.O. Box 3265
Harrisburg, PA 17105-3265

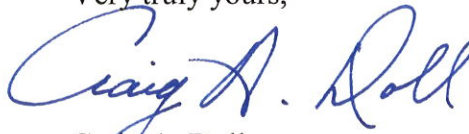
Re: We American Citizens v. Pocono Cab Company, LLC
Commission Docket No. C-2011-2255389

Dear Secretary Chiavetta:

Enclosed is the original Preliminary Objections of Pocono Cab Company, LLC which has been filed electronically with the Commission this date. A copy of this document has been served upon Complainant as evidenced by the Certificate of Service appended to the document.

If you have any questions, please feel free to contact me. Thank you for your time and cooperation in this matter.

Very truly yours,


Craig A. Doll

cc: Per Certificate of Service
Pocono Cab Company, LLC
Enclosures

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

We American Citizens	:	
	:	
v.	:	C-2011-2255389
	:	
Pocono Cab Company, LLC and WGM	:	

NOTICE TO PLEAD

The attached Preliminary Objections of Pocono Cab Company, LLC have been filed with the Pennsylvania Public Utility Commission in the above captioned proceeding. If you wish to respond to the Preliminary Objections, you must, pursuant to the provisions of 52 Pa. Code §5.101(f) take action within ten (10) days after these Preliminary Objections are served by filing a response with the Secretary of the Pennsylvania Public Utility Commission and serving a copy of that response upon all parties of record. You are warned that if you fail to do so the case may proceed without you and an order or a judgment may be entered against you by the Commission without further notice.

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

We American Citizens :
 :
 v. : C-2011-2255389
 :
 Pocono Cab Company, LLC and WGM :

**PRELIMINARY OBJECTIONS
OF
POCONO CAB COMPANY, LLC**

Pocono Cab Company, LLC ("Pocono Cab"), by and through its undersigned counsel, pursuant to the provisions of 52 Pa. Code § 5.101 *et. seq.* files these preliminary objections to the complaint of We American Citizen\Consumer Advocacy served August 4, 2011. In support of these preliminary objections, Pocono Cab States as follows:

Background

1. On or about August 2, 2011, We American Citizens with a mailing address of P.O.B. 8354, FDR Station, NY, NY 10022 filed a complaint purportedly on behalf of the residents of Monroe County, Pennsylvania. Complaint ¶ 1.
2. The complaint contained a telephone number of We American Citizens of 646-488-6818 which, according to a computer search, is a cell phone number in the New York City metropolitan area.
3. The complaint lists two utility companies against whom the complaint is filed: (1) Pocono Cab, and (2) WGM Cab. Complaint ¶ 2.

4. The complaint is filed in opposition to a proposed rate increase. Complaint ¶ 3. Pocono Cab does not have pending before the Commission a request to increase its rates. Pocono Cab is unaware of whether WGM, a competitor, has filed for a rate increase with the Commission.

5. Pocono Cab submits that as an organization, Complainant is required to have legal counsel to represent it before the Commission. The complaint lists legal representation as a “Non-Barr, Rep.” with an email address of nationallaws@aol.com. Complaint ¶ 8. A search of the internet indicates that no such email address exists.

PRELIMINARY OBJECTION – INSUFFICIENT SPECIFICITY OF A PLEADING

6. Paragraphs 1 through and including 5 are incorporated herein as if fully set forth.

7. A preliminary objection on the grounds of the insufficient specificity of a pleading is available to a Respondent, 52 Pa. code § 5.101(a)(3), and is designed to ensure that a party’s right and ability to answer and defend will not be impaired by a complaining party’s vagueness in setting forth the basis of his or her complaint. *Local No. 163, International Union of United Brewery, Flour, Cereal, Soft Drink and Distillery Workers of America v. Watkins*, 417 Pa. 120, 207 A.2d 776 (1965); *Stilp v. Commonwealth*, 910 A.2d 775 (Pa. Commw. 2006); *Paz v. Commonwealth, Department of Corrections*, 135 Pa. Cmwlth. Ct. 162, 580 A.2d 452 (1990). A complaining party must disclose sufficient material facts to enable a respondent to prepare a defense.

8. We American Citizens (“Complainant”) purports to be a consumer advocacy group located somewhere in the New York City area.

9. Complainant has not provided sufficient information for Pocono Cab to identify complainant or whether Complainant has ever utilized the services of Pocono Cab.

10. Complainant purports to represent the residents of Monroe County Pennsylvania.

11. The complaint does not set forth with any specificity the individual or individuals who Complainant represents or whether any of the unnamed residents are or ever were customers of Pocono Cab. As such, Pocono Cab cannot begin to identify whether it performed transportation services for any specific individual.

12. The complaint alleges that the unnamed individual or individuals which it purports to represent were charged two “unknown fees” which are later referred to as a surcharge. Complainant does not allege when the purported transportation occurred, the amount of the two “unknown charges”; whether those charges were paid; the name of the individual being transported; the points of origin and destination of the alleged transportation, or even if Pocono Cab performed the alleged transportation. As such, Complainant has furnished insufficiently specific information to enable Pocono Cab to even begin to investigate the allegations contained in the Complaint.

13. The complaint is filed against a proposed rate increase by Pocono Cab and/or WGM – another certificated carrier operating in Monroe County. As stated earlier, Pocono Cab does not have a rate increase pending before the Commission. Complainant has not provided a docket number, or any other identifying information to permit Pocono Cab to identify what proceeding Complainant is referencing. As such Pocono Cab cannot respond to this allegation.

PRELIMINARY OBJECTION – STANDING

14. Paragraphs 1 through and including 13 are incorporated herein as if fully set forth.

15. In order to institute a complaint before the Pennsylvania Public Utility Commission, the Complainant must present evidence of its standing to bring the action.

16. Complainant has failed to set forth any facts that would tend to establish that it is a customer of Pocono Cab.

17. The Complainant has failed to set forth any facts which remotely indicate that it is authorized to bring this Complaint on behalf of the residents of Monroe County, Pennsylvania.

18. The complaint is completely devoid of any facts which would confer standing upon Complainant.

PRELIMINARY OBJECTION - FAILURE TO STATE A CAUSE OF ACTION

19. Paragraphs 1 through and including 18 are incorporated herein as if fully set forth.

20. In order for a complaint to be entertained, the parties and the adjudicatory body must be made aware of the action or actions which give rise to the complaint.

21. Complainant requests that this Commission modify the current rates charged by Pocono Cab so as to require it to provide flat rates from unknown points of origin to various places of business with no addresses or indication of whether they are within the authorized service territory of Pocono Cab.

22. While the Commission possesses the jurisdiction to investigate rates including those questioned by a complaint, such an investigation will occur only if the complaint alleges that the existing rates being charged are unjust, unreasonable, or in violation of any provision of the Public Utility Code. The complaint contains no allegations that the rates charged by Pocono Cab are unjust, unreasonable, or in violation of any provision of the Public Utility Code.

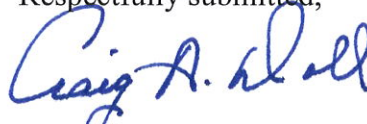
23. Complainant does not allege that an unnamed individual or individuals were charged an amount in excess of the rates contained within Pocono Cab's Commission approved tariff plus any Commission approved surcharges such as the fuel adjustment surcharge.

24. Complainant does not allege any act or thing done or omitted to be done by Pocono Cab in violation of the Public Utility Code, this Commission's regulations or any order of the Commission as required by Section 701 of the Public Utility Code. 66 Pa. C.S. § 701.

WHEREFORE, Respondent, Pocono Cab company, LLC respectfully requests that the Commission:

1. Grant these preliminary objections; and
2. Dismiss the complaint of We American Citizens.

Respectfully submitted,



Craig A. Doll, Esquire
25 West Second Street
P.O. Box 403
Hummelstown, PA 17036-0403
(717) 566-9000
cdoll76342@aol.com

Attorney I.D. # 22814

Attorney for Pocono Cab Company, LLC

DATED: August 8, 2011

