



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

IN REPLY PLEASE
REFER TO OUR FILE

January 11, 2012

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

Re: Pennsylvania Public Utility Commission, Bureau of Investigation and
Enforcement v. The Yellow Cab Company of Pittsburgh
Docket No. C-2011-2212501

Dear Secretary Chiavetta:

Enclosed for filing, please find an original and three (3) copies of the Bureau of Investigation and Enforcement's Motion to Strike Answer and New Matter as untimely filed and the Bureau of Investigation and Enforcement's Reply to the New Matter of The Yellow Cab Company of Pittsburgh in the above-captioned matter.

Copies have been served on the parties in accordance with the Certificate of Service.

Very truly yours,

Stephanie M. Wimer
Prosecutor

Enclosures

cc: Certificate of Service

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**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

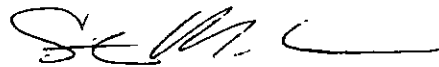
Pennsylvania Public Utility Commission :
Bureau of Investigation and Enforcement :
: :
v. : **Docket No. C-2011-2212501**
: :
: :
The Yellow Cab Company of Pittsburgh :

NOTICE TO PLEAD

Pursuant to 52 Pa. Code § 5.103, the Bureau of Investigation & Enforcement of the Pennsylvania Public Utility Commission (Commission) has filed a Motion to Strike the Untimely Filed Answer and New Matter of the Yellow Cab Company of Pittsburgh. You are hereby notified to file a written response within twenty (20) days of the service of the Motion, consistent with Commission procedural regulations at 52 Pa. Code §5.61.

Your Answer must be verified and the original and two (2) copies sent to:

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



Stephanie M. Wimer
Prosecutor
Attorney I.D. 207522

Bureau of Investigation & Enforcement
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265
(717) 787-5000

Dated: January 11, 2012

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**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission :
Bureau of Investigation and Enforcement :
: :
v. : **Docket No. C-2011-2212501**
: :
The Yellow Cab Company of Pittsburgh :

**MOTION TO STRIKE THE UNTIMELY ANSWER AND NEW MATTER OF
THE YELLOW CAB COMPANY OF PITTSBURGH**

The Pennsylvania Public Utility Commission's ("Commission") Bureau of Investigation and Enforcement ("I & E"), pursuant to 52 Pa. Code § 5.103, moves to strike in its entirety as untimely the Answer and New Matter of the Yellow Cab Company of Pittsburgh ("Yellow Cab" or "Respondent") to I & E's Complaint. In support thereof, I & E avers as follows:

PROCEDURAL HISTORY

1. On November 29, 2011, I & E served a Complaint against Respondent alleging a failure to furnish adequate, efficient and reasonable service and facilities, a failure to complete log sheets and a failure to charge rates according to its tariff.
2. Pursuant to Section 5.61(a) of the Commission's regulations, 52 Pa. Code § 5.61(a), answers to complaints shall be filed with the Commission within 20 days after the date of service.
3. Pursuant to Section 5.62(b) of the Commission's regulations, 52 Pa. Code § 5.62(b), a party may set forth in its answer new matter that provides another material fact and is not merely a denial of the averments of the preceding pleading.
4. Respondent's Answer and New Matter were due on or before December 19, 2011.
5. On December 30, 2011, Respondent filed an Answer and New Matter.

DISCUSSION

6. The Answer and New Matter were not timely filed and must be stricken from consideration.

7. The Commission's regulation requires that an answer to a complaint be filed within twenty (20) days of the date of service.

8. Pursuant to Section 5.61(c) of the Commission's regulations, 52 Pa. Code § 5.61(c), a respondent failing to file an answer within the applicable period may be deemed in default, and relevant facts stated in the pleadings may be deemed admitted.

9. Counsel for Respondent did not request an extension of time to file Respondent's Answer and New Matter.

10. Counsel for Respondent did not request leave to file a late answer and new matter, and provided no justification for the untimely filings.

11. Given these circumstances, I & E respectfully requests that Respondent's untimely Answer and New Matter be stricken, that Respondent be deemed in default and that the allegations set forth in I & E's Complaint be deemed admitted.

REPLY TO NEW MATTER

In the event that Respondent's untimely Answer and New Matter are not stricken, I&E files this Reply to New Matter in response to the new issues that were raised in Respondent's Answer to the Complaint.

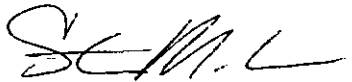
10. Denied. By way of further response, Respondent's driver, Alehya Stieff, ordered the passengers to exit her vehicle after they complained about the loud volume of her radio and her decision not to follow the GPS and take a circuitous route.

11. Denied. By way of further response, the enforcement officer who investigated this matter, Gary Double, met with Respondent's safety director, Paul Caliarì, before speaking to Ms. Stieff. Mr. Caliarì called Ms. Steiff into Respondent's office where Officer Double interviewed her about the incident. Respondent had notice of and participated in this interview.

12. Denied.

WHEREFORE, in consideration of the foregoing, the Bureau of Investigation & Enforcement respectfully requests that the Commission strike The Yellow Cab Company of Pittsburgh's untimely filed Answer and New Matter, impose a civil penalty upon The Yellow Cab Company of Pittsburgh in the sum of Four Thousand Six Hundred Dollars (\$4,600.00) for the illegal activity described in the Complaint and order such other remedy as the Commission may deem to be appropriate.

Respectfully submitted,



Stephanie M. Wimer
Prosecutor
Bureau of Investigation & Enforcement
Pennsylvania Public Utility Commission

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

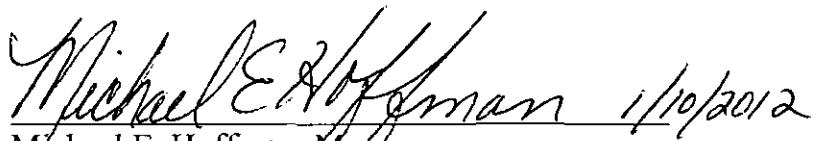
Date: January 11, 2012

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VERIFICATION

I, Michael E. Hoffman, Manager, Bureau of Investigation and Enforcement, hereby state that the facts above set forth are true and correct to the best of my knowledge, information and belief and that I expect the Bureau will be able to prove the same at any hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa. C.S. §4904 relating to unsworn falsification to authorities.

Date:


Michael E. Hoffman, Manager
Bureau of Investigation and Enforcement
PA. Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

(717) 783-5010

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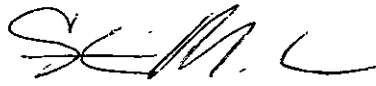
Certificate of Service

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).

Service by First Class Mail:

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

Dated: January 11, 2012



Stephanie M. Wimer
Prosecutor

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