



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

IN REPLY PLEASE
REFER TO OUR FILE

January 27, 2012

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

**Re: Pa. Public Utility Commission, Bureau of Investigation and
Enforcement v. Willow Grove Yellow Cab Co., Inc., t/a Bux-Mont
Yellow Cab, et al.,
Docket No. C-2011-2270559**

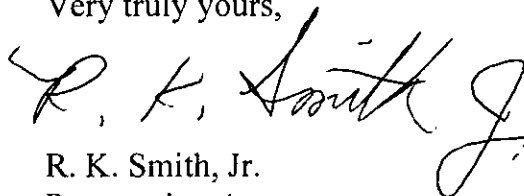
Dear Secretary Chiavetta:

On behalf of the Bureau of Investigation and Enforcement, enclosed please find an original and three (3) copies of the Settlement Agreement 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) 787-5262.

Very truly yours,



R. K. Smith, Jr.
Prosecuting Attorney

cc: Barnett Satinsky, Esquire

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**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**Pennsylvania Public Utility Commission,
Bureau of Investigation & Enforcement**

Complainant

v.

**Willow Grove Yellow Cab Co., Inc.,
t/a Bux-Mont Yellow Cab, et al**

Respondent

Docket No. C-2011-2270559

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SETTLEMENT AGREEMENT

THIS AGREEMENT is by the Pennsylvania Public Utility Commission's Bureau of Investigation and Enforcement (BI&E), through Prosecuting Attorney R. K. Smith, Jr., and Willow Grove Yellow Cab Co., Inc., t/a Bux-Mont Yellow Cab, et al (Respondent), represented by Barnett Satinsky, Esquire, in the above-captioned proceeding. In pursuance of this Agreement, BI&E and Respondent stipulate as follows:

I. Background and Summary of Proceedings

1. The parties to this Settlement Agreement are BI&E, P.O. Box 3265, Harrisburg, PA 17105-3265, and Respondent, Willow Grove Yellow Cab Co., Inc., t/a Bux-Mont Yellow Cab, et al, which maintains its principal place of business at 701 Lincoln Avenue, Willow Grove, Pa. 19090.

2. On the date of the violations alleged in this complaint, Respondent held certificates of public convenience from this Commission at Docket No. A-00087075, Folders. 2, 3 and 4, for call or demand authority, and at Docket No. A-00087075, F. 7, for limousine authority.

3. Pursuant to its enforcement responsibilities, BI&E, initiated the above captioned complaint against Respondent alleging that between December 1 and December 31 of 2010, Respondent did not provide the Commission with a current list of all its vehicles utilized under its various grants of Commission authority, a violation of 52 Pa. Code Sections 29.314(c) and 29.333(d). BTS requested that the Commission assess a civil penalty of \$500.00 against Respondent. Respondent filed an Answer, with New Matter, and BI&E filed a Reply to New Matter.

II Settlement Terms

4. Respondent and BI&E 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. Respondent agrees that it violated 52 Pa. Code Sections 29.314(c) and 29.333(d), by not submitting a current vehicle list for vehicles providing service pursuant to its call or demand and limousine authorities.

b. Respondent agrees to pay a civil penalty of \$250.00 to satisfy this complaint and will comply with the Public Utility Code and the Commission's regulations in the future.

6. Respondent and BI&E 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 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).

7. 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.

8. 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 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 as follows:

9. 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 Respondent in this case should not be deemed willful fraud or misrepresentation.

10. The second factor to be considered under the policy statement is whether the resulting consequences of Respondent's actions were of a serious nature. 52 Pa. Code § 69.1201(c)(2). The resulting consequences were not of a serious nature.

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

11. The third factor to be considered under the policy statement is whether 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.* The violations in this case should be deemed unintentional.

12. The fourth factor to be considered under the policy statement is whether Respondent has made efforts to change his practices and procedures to prevent similar conduct in the future. 52 Pa. Code § 69.1201(c)(4). Respondent has assured the Commission that the required vehicle list will be submitted in the future in a timely manner.

13. The fifth factor to be considered under the policy statement relates to the number of customers affected by Respondent's actions and the duration of the violations. 52 Pa. Code § 69.1201(c)(5). This factor does not apply.

14. The sixth factor to be considered under the policy statement relates to Respondent's compliance history. 52 Pa. Code § 69.1201(c)(6). Respondent compliance history should be deemed satisfactory.

15. The seventh factor to be considered under the policy statement relates to whether Respondent cooperated with the Commission. 52 Pa. Code § 69.1201(c)(7). Respondent fully cooperated with the Commission's staff in this proceeding during the investigation stage and throughout settlement discussions. 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. Respondent is now in compliance with the Commission's rules and regulations since it

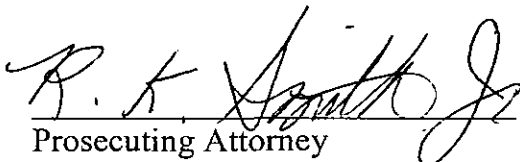
obtained a waiver of vehicle age requirements on August 24, 2011. BI&E submits that Respondent's payment of the agreed upon \$250.00 civil penalty constitutes a reasonable and appropriate resolution of the merits of this proceeding.

16. 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.

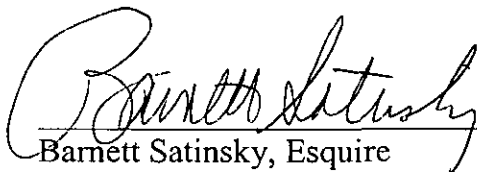
WHEREFORE, because the Agreement addresses and attempts to remedy all allegations raised in this matter, BI&E and Respondent request that the Commission adopt an order approving the terms of this Agreement as being in the public interest.

Date: 1/27/2012

Date: JANUARY 25, 2012



Prosecuting Attorney
R. K. Smith, Jr.,
Bureau of Investigation & Enforcement



Barnett Satinsky, Esquire
For
Willow Grove Yellow Cab Co., Inc.,
t/a Bux-Mont Yellow Cab, et al

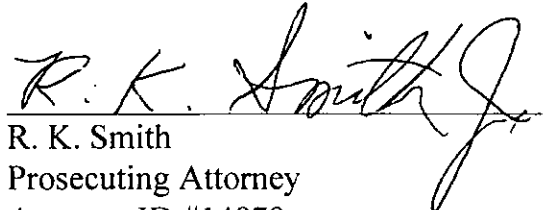
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CERTIFICATE OF SERVICE

I hereby certify that I am this day serving the foregoing document, Settlement Agreement, in accordance with the requirements of 52 Pa. Code § 1.54 *et seq.* (relating to service by a participant).

Notification by first class mail addressed as follows:

Barnett Satinsky, Esquire
Fox Rothschild, LLP
2000 Market Street, 20th Floor
Philadelphia, PA 19103-3222


R. K. Smith
Prosecuting Attorney
Attorney ID #14879

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

DATE: January 27, 2012

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