



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

IN REPLY PLEASE  
REFER TO OUR FILE  
C-2012-2223667

February 28, 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-2012-2223667

Dear Secretary Chiavetta:

Enclosed for filing, please find an original and three (3) copies of the Reply of the Bureau of Investigation and Enforcement 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

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Pennsylvania Public Utility Commission :  
Bureau of Investigation and Enforcement :  
:  
v. : Docket No. C-2012-2223667  
:  
The Yellow Cab Company of Pittsburgh :

**REPLY TO THE NEW MATTER OF THE YELLOW CAB COMPANY OF  
PITTSBURGH**

AND NOW comes the Pennsylvania Public Utility Commission's ("Commission") Bureau of Investigation and Enforcement ("I&E") and files this Reply to the New Matter of the Yellow Cab Company of Pittsburgh ("Yellow Cab" or "Respondent"), pursuant to 52 Pa. Code § 5.63. In support thereof, I&E avers as follows:

10. Denied. The civil penalties set forth in I&E's complaint are based on each violation that Motor Carrier Enforcement Officer Gary Double, Jr. discovered throughout the course of investigating this customer complaint. Each proposed civil penalty is in direct relationship to the violation alleged. Further, Section 3301 of the Public Utility Code, 66 Pa. C.S. § 3301, permits the Commission to seek up to \$1,000 per violation for each day the violation occurs. The civil penalties requested in the complaint are each under the \$1,000 statutory maximum per violation and, as such, are not unnecessarily punitive and excessive.

11. Denied. It is denied that I&E has an affirmative duty to provide Respondent with notice and an opportunity for counsel to be present prior to entering Respondent's facilities to conduct an investigation. By way of further answer, the General Assembly gave the Commission, through its authorized representatives, the "full power and authority" to enter the premises of a public utility and perform the following:

make any inspection, valuation, physical examination, inquiry, or investigation of any and all plant and equipment, facilities, property and pertinent records, books papers, accounts, maps, inventories, appraisals, valuations, memoranda, documents, or effects whatsoever, of any public utility . . . .

66 Pa. C.S. § 506. It is also denied that Respondent's due process rights were violated. Respondent is receiving due process by virtue of the instant proceeding.

12. Denied. It is denied that I&E had an obligation to advise Respondent's employees and its lease drivers of "rights with respect to the interviews/investigation being conducted." It is also denied that such a warning or advisement is required when *the Commission or its authorized representatives investigate potential regulatory violations that, if substantiated, would result in a non-criminal, administrative proceeding.* It is denied that any information obtained from these interviews should be stricken. By way of further answer, Respondent has an obligation to furnish the Commission with information during the course of an investigation, pursuant to Section 505 of the Public Utility Code, 66 Pa. C.S. § 505.

13. Denied. It is denied that the reference to illegal activity connotes criminal activity, as opposed to regulatory violations. It is denied that I&E is seeking criminal fines and not civil penalties. For the reasons described in Reply No. 11, it is denied that I&E must notify Respondent of its intention to interview Respondent's employees and lease drivers, or that I&E must advise Respondent's employees and lease drivers of their right not to consent to being interviewed without consulting with Respondent. It also is denied that I&E must advise Respondent's employees and lease drivers of a right to counsel prior to conducting interviews. By way of further response, such interviews were not custodial interrogations and the statements obtained therein would not result in or be the subject of criminal prosecutions. To the contrary, the instant proceeding is an administrative one and Respondent, its employees and lease drivers were never placed in police custody. Consequently, I&E is not required to advise Respondent of rights akin to a Miranda warning prior to interviewing Respondent, its employees and its lease drivers.

Respectfully submitted,



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

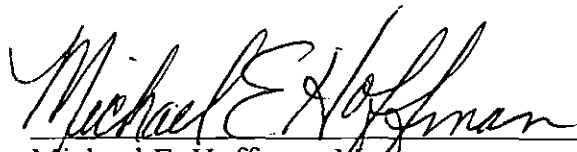
P.O. Box 3265  
Harrisburg, PA 17105-3265

Date: February 28, 2012

**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: 2/28/12



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

Paul S. Guarnieri, Esquire  
Malone Middleman, P.C.  
Northridge Office Plaza  
117 VIP Drive, Suite 310  
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Dated: February 28, 2011

  
Stephanie M. Wimer  
Prosecutor

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