



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

IN REPLY PLEASE
REFER TO OUR FILE

April 25, 2012

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

Re: Pennsylvania Public Utility Commission, Bureau of Transportation and Safety
v. Robert Levan t/a Night Moves, Docket No. C-2009-2070216

Dear Secretary Chiavetta:

Enclosed for filing are an original and three (3) copies of a Motion for Continuance of the Bureau of Transportation and Safety in the above-referenced case. Copies have been served on the parties of record in accordance with the Certificate of Service.

Sincerely,

Stephanie M. Wimer
Prosecutor

Enclosure

cc: As per certificate of service

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**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission :
Bureau of Transportation and Safety : C-2009-2070216
v. :
Robert Levan t/a Night Moves :

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**THE BUREAU OF TRANSPORTATION AND SAFETY'S
MOTION FOR CONTINUANCE**

AND NOW comes the Bureau of Transportation and Safety (BTS)¹ of the Pennsylvania Public Utility Commission (Commission), by and through its attorney, Stephanie Wimer, and files this Motion for Continuance of the hearing in accordance with Section 1.15(b) of the Commission's regulations, 52 Pa. Code §1.15(b). In support thereof, BTS states as follows:

1. The above captioned Formal Complaint is scheduled for hearing before Administrative Law Judge (ALJ) Dennis J. Buckley on Tuesday, May 29, 2012 at 10:00 a.m. in Harrisburg.
2. BTS intends to call Bradley Stiles, the shipper, as a witness.
3. After receiving notice of the Initial Hearing, counsel for BTS contacted Mr. Stiles to determine his availability on May 29, 2012.

¹ The Law Bureau Prosecutory Staff (Prosecutory Staff) represented BTS in this proceeding. Effective August 11, 2011, the prosecutory functions of the Law Bureau and the Motor Carrier Enforcement Division of BTS were transferred to the Bureau of Investigation and Enforcement pursuant to the Commission's reorganization. See *Implementation of Act 129 of 2008 Organization of Bureaus and Offices*, Docket No. M-2008-2071852 (Order entered August 11, 2011). As this Complaint was issued prior to the Commission's reorganization, the parties will be referenced as Prosecutory Staff and BTS.

4. Mr. Stiles indicated that he will be out of the country between May 18 and 29, and that on May 29, he will be traveling back to the United States from Europe.

5. Mr. Stiles is an indispensable witness.

6. The gist of the Complaint is based on Respondent, who does not possess a certificate of public convenience, offering to transport Mr. Stiles' household goods at the rate of \$130.00 per hour. BTS has the burden of proving this allegation.

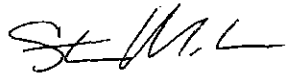
7. Mr. Stiles is in the best position to provide testimony regarding Respondent's action of holding himself out to transport household goods without having a certificate of public convenience.

8. BTS understands that the Commission ordered that an expedited hearing be held. However, holding the hearing even a few days after May 29, 2012 would allow BTS the opportunity to present the testimony of Mr. Stiles, which is essential to proving the allegations set forth in the Complaint.

9. BTS contacted Respondent and Respondent neither consented nor objected to BTS' request to continue the hearing in this matter. Respondent is available on May 29, 2012, and is concerned that he may be unavailable on the next scheduled hearing date.

WHEREFORE, the Bureau of Transportation and Safety requests that the hearing in this matter be continued to the next available hearing date.

Respectfully Submitted,



Stephanie M. Wimer
Attorney ID # 207522

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Dated: April 25, 2012

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CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the foregoing document, Motion for Continuance, upon the parties, listed below, in accordance with the requirements of 52 Pa.Code § 1.54 (relating to service by a party).

Service by First Class Mail and Hand Delivery:

The Honorable Dennis J. Buckley
Administrative Law Judge
Pennsylvania Public Utility Commission
Office of Administrative Law Judge
P.O. Box 3265
Harrisburg, PA 17105
(*service by hand delivery*)

Mr. Robert Levan
t/a Night Moves
1450 Lehigh Avenue
Allentown, PA 18103
(*service by first class mail*)



Stephanie M. Wimer
Prosecutor
Attorney ID # 207522

Counsel for the Bureau of
Transportation and Safety
of the Pennsylvania Public
Utility Commission

P.O. Box 3265
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