

**PENNSYLVANIA PUBLIC UTILITY COMMISSION
HARRISBURG, PENNSYLVANIA 17120**

**PENNSYLVANIA PUBLIC
UTILITY COMMISSION, BUREAU
OF TRANSPORTATION AND
SAFETY v. HANDY DELIVERY,
INC.**

**Public Meeting June 7, 2012
2223657-OSA
Docket Nos. C-2011-2223657;
A-00107326**

**MOTION OF
CHAIRMAN ROBERT F. POWELSON**

Before the Commission is a Settlement Agreement (Settlement) entered into between the Law Bureau Prosecutory Staff (LBPS) acting on behalf of the Commission's Bureau of Transportation and Safety (BTS)¹ and Handy Delivery, Inc. (Respondent) for violations of the Public Utility Code, 66 Pa. C.S. §§101, *et seq.*

On February 18, 2011, a Complaint was filed against Respondent. The Complaint alleged that Respondent submitted an application, requesting a waiver of the Commission's Regulations which required vehicles operating in call and demand service to be less than eight model years old, unless otherwise permitted by the Commission. By letter dated December 10, 2010, BTS granted permission to inspect three of Respondent's vehicles in order to determine if a waiver was appropriate. The letter also advised Respondent that it was prohibited from using any vehicle over eight model years old until it received a waiver from BTS.

During the inspections, one of the vehicles was placed out-of-service for missing leaf springs in the left and right rear (relating to suspension). Additionally, a review of log sheets indicated that all three vehicles were used to transport passengers without prior Commission approval in violation of Section 29.314(d), 52 Pa. Code §29.314(d). These violations resulted in BTS requesting a penalty of \$1,500. The Settlement reached by the parties lowered the penalty to \$750.00. I respectfully disagree.

Although I generally support Settlements, I find it difficult to support the Settlement before us. The Respondent blatantly disregarded the Commission's Regulations when it continued to operate three vehicles that were older than eight years old before the Commission approved a waiver. The Respondent was issued a Certificate of Public Convenience on July 10, 1987. As a certificated carrier, Respondent was or should have been aware not to operate vehicles older than eight years given the fact that the Regulation was published in the Pennsylvania Bulletin and served on all carriers when it was promulgated.² Respondent stated that it either misfiled or did not receive the December 10, 2010, letter referenced in the Complaint and therefore did not know that it was not supposed to operate cars older than eight years.³ I find this hard to believe since notice was given to all carriers at the time the Regulation went into effect and that Respondent previously requested waivers of this specific requirement.⁴

¹ Effective August 11, 2011, the prosecutory functions of the Law Bureau and BTS were transferred to the Bureau of Investigation and Enforcement pursuant to the Commission's reorganization.

² Effective August 5, 2006 at 36 Pa. B. 4181, L-00020157.

³ Respondent's Answer page 2.

⁴ Respondent requested waivers of its vehicles in 2008 and 2009. In discussions with Commission staff, Respondent was informed not to operate any vehicles it put forward for inspection until the waivers were granted.

Operating vehicles that are older than eight years without a waiver, especially one placed out-of-service, puts the travelling public in danger. I find it troubling that a carrier holding authority for 25 years would choose to treat our Regulations so casually. The Commission's mission is to provide safe, adequate and reliable service. Unfortunately I do not believe in this case that happened. For the reasons stated above I cannot support lowering the penalty.

THEREFORE IT IS ORDERED:

1. That the Settlement Agreement entered into between Handy Delivery, Inc. and the Law Bureau Prosecutory Staff be rejected consistent with this Motion.
2. That the Office of Special Assistants prepare the appropriate Opinion and Order.

DATE: June 7, 2012



ROBERT F. POWELSON
CHAIRMAN