



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

IN REPLY, PLEASE  
REFER TO OUR FILE

August 17, 2012

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

Re: Pennsylvania Public Utility Commission v. Germantown Cab Company;  
C-2010-2175330

Dear Secretary Chiavetta:

Pursuant to the provisions of 52 Pa. Code § 5.535, please accept for filing an original and nine copies of the Reply Exceptions filed in the above referenced matter.

Very truly yours,

Heidi L. Wushinske  
Assistant Counsel

Enclosures

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**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

|   |                                    |
|---|------------------------------------|
| <b>Pennsylvania Public Utility Commission</b> | :                                  |
| <b>Bureau of Transportation and Safety</b>    | :                                  |
|   | : <b>Docket No. C-2010-2175330</b> |
| v.  | :                                  |
|   | :                                  |
|   | :                                  |
| <b>Germantown Cab Company</b>                 | :                                  |

**REPLY TO EXCEPTIONS FILED BY GERMANTOWN CAB COMPANY**

Heidi L. Wushinske  
Assistant Counsel

Eric A. Rohrbaugh  
Deputy Chief Counsel

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Safety

P.O. Box 3265  
Harrisburg, PA 17105-3265  
(717) 787-5000

Dated: August 17, 2012

Law Bureau Prosecutory Staff<sup>1</sup> of the Pennsylvania Public Utility Commission (Prosecutory Staff), through Assistant Counsel, Heidi L. Wushinske, files the following Reply to Exceptions filed by Germantown Cab Company (“Germantown” or “Objector”) to the Initial Decision of Administrative Law Judge Cynthia Williams Fordham (“ALJ”), and states as follows:

### **Reply To General Exception**

Objector raised just one general exception, which covers several issues.<sup>2</sup> First, Objector alleges that House Bill 2390 (“Act 119 of 2012”) grants the Philadelphia Parking Authority (“PPA” or “Authority”) exclusive jurisdiction over Germantown. Second, Objector excepts to the ALJ’s denial of its Motion for Declaratory Order wherein Objector asserted that the Commission had exclusive jurisdiction over Germantown. Respondent argues that the established dual regulatory authority of the PPA and Commission renders the violations against Germantown unenforceable. Prosecutory Staff submits that these exceptions are meritless.

Act 119 of 2012 does not grant the PPA exclusive jurisdiction over Germantown as Objector argues, but rather clarifies that the PPA has exclusive jurisdiction over taxicab service *within* cities of the first class. As amended, the relevant provision of section 5714 of Title 53 (relating to carriers that do not have city-wide authority from the

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<sup>1</sup> Due to the Commission’s reorganization, Law Bureau Prosecutory Staff and the Bureau of Transportation and Safety are now the Bureau of Investigation and Enforcement.

<sup>2</sup> Although the Commission’s regulations direct that exceptions must be numbered and identify the finding of fact or conclusion of law to which exception is taken, Objector’s exceptions contain just one “general exception.” 52 Pa. Code § 5.553(b).

PPA) states:

(2) Carriers [currently] authorized by the authority to provide taxicab service to designated areas within cities of the first class on a non-citywide basis pursuant to section 5711(c)(2.1) (relating to power of authority to issue certificates of public convenience) shall retain their authorization [through the authority] in those areas of a city of the first class subject to the exclusive jurisdiction of the authority and orders and regulations of the authority issued under this chapter...

Germantown is a carrier that holds authority to provide service in Philadelphia on a non-citywide basis, and also holds separate authority from the Commission to provide service in areas outside of Philadelphia. Nothing in Act 119 of 2012 gives the PPA authority to regulate taxi service outside the city of Philadelphia or even contemplates that the PPA would regulate the operations of taxi service outside Philadelphia city limits. In fact, Objector does not point to any provision of Act 119 of 2012 that supports its position that the PPA now has exclusive jurisdiction over Germantown's operations outside the Philadelphia city limits.

As an alternative to its position that the PPA has exclusive jurisdiction over Germantown, Objector argues that the ALJ should not have denied its motion for a declaratory order that the Commission has exclusive jurisdiction over Germantown. As the ALJ correctly found, the Commission was not required to make such a determination (I.D. at 16). Pursuant to Section 331(f) of the Public Utility Code, the issuance of declaratory orders is discretionary. 66 Pa. C.S. § 331(f). The ALJ properly found that Objector did not provide compelling reasons for the issuance of a declaratory order. (I.D. at 17). As stated in Prosecutory Staff's brief on this issue, the only question regarding jurisdiction that is relevant to this proceeding is whether the Commission has jurisdiction

over the operations of Germantown outside of Philadelphia. Furthermore, an order divesting the PPA of its authority over Germantown's operations in Philadelphia would be in direct conflict with Act 119 of 2012, which clearly gives the PPA exclusive jurisdiction over taxi service within the city of Philadelphia.

PPA's exclusive jurisdiction over taxi service within the city of Philadelphia, gives it sole authority to regulate rates for taxi service within the city. Objector's argument that the Commission should "regulate" Germantown's PPA rates or at least require Germantown to file these rates with the Commission is erroneous. Objector argues that section 23.11(a) of the Commission's regulations requires carriers who are also regulated by another regulatory body to file those rates with the Commission. 52 Pa. Code § 23.11(a). In this case, Objector argues that the Commission should have required Germantown to file its PPA rates with the Commission. However, as stated above, the legislature has delegated to the PPA the exclusive authority to regulate taxi service within the city of Philadelphia. The Commission has no authority to require the filing of tariffs for service that it does not regulate.

Objector further argues that the Commission requires carriers to file tariffs for service subject to the jurisdiction of federal regulatory bodies and thus, should require carriers to file PPA tariffs. Objector's assumption that the Commission requires carriers to file tariffs for service subject to the jurisdiction of federal regulatory bodies is incorrect. The Commission in fact requires no such filing. Objector incorrectly points to the Commission's regulation at 52 Pa. Code § 23.11(b) as support for its argument that the Commission requires filing of federal tariffs. This regulation does not require carriers

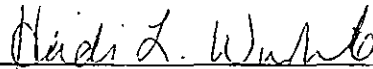
to file tariffs for service subject to the jurisdiction of federal regulatory bodies, but rather states that tariffs of these carriers should correspond to the form prescribed by the Federal agency. 52 Pa. Code § 23.11(b).

Finally, Objector argues that the PPA's practice of allowing carriers like Germantown to self-designate which vehicles will be subject to the PPA's authority is "unworkable." The crux of Objector's complaint is that "the Authority did not establish that the vehicles it inspected were self-designated or non-designated vehicles." First, the actions or inactions of the Parking Authority regarding its inspections have no bearing on this case. Second, Objector is ignoring the practical aspects of an inspection by the Commission, such as the fact that the Commission's enforcement officers alerted Germantown in advance of the inspection, thus allowing Germantown time to get its cabs ready for the inspection. The enforcement officers also only inspected cabs bearing Germantown's Commission-issued A number. Objector's argument that the self-designation of cabs it wishes to use in its PPA jurisdictional service deprives the Commission of jurisdiction to inspect Germantown's cabs bearing its Commission-issued A-number is without merit.

Finally, Prosecutory Staff notes that the ALJ correctly found that Germantown "did not deny any of the violations mentioned in the complaint. It just provided evidence to show how hard it was to comply with conflicting regulations regarding the meters and the decals." (I.D. at 19).

WHEREFORE, for the foregoing reasons, the Bureau of Transportation and Safety of the Pennsylvania Public Utility Commission requests that the Commission DENY the Exceptions and dismiss the objection.

Respectfully submitted,



Heidi L. Wushinske  
Assistant Counsel, Law Bureau Prosecutory  
Staff, on behalf of the Bureau of Transportation  
and Safety of the Pennsylvania Public Utility  
Commission

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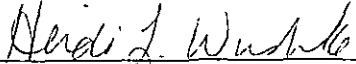
Dated: August 17, 2012

**CERTIFICATE OF SERVICE**

I hereby certify that I am this 17th day of August, 2012, serving the foregoing documents upon the persons listed below in accordance with the requirements of 52 Pa. Code §1.54:

Cynthia Williams Fordam, Administrative Law Judge  
800 Market Street  
4<sup>th</sup> Floor  
Philadelphia, PA 19107

Michael S. Henry, Esquire  
2336 S. Broad Street  
Philadelphia, PA 19145

  
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Heidi L. Wushinske  
Assistant Counsel

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