



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

IN REPLY PLEASE
REFER TO OUR FILE

August 14, 2012

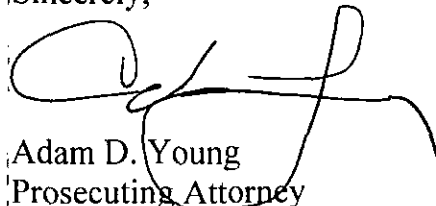
Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

Re: Pennsylvania Public Utility Commission, Bureau of Investigation
and Enforcement v. The Yellow Cab Company of Pittsburgh,
Docket No. C-2012- 2219127

Dear Ms. Chiavetta:

Enclosed for filing are an original and three (3) copies of the Reply to the Motion to Strike the Untimely Reply to New Matter on behalf of the Bureau of Investigation and Enforcement of the Pennsylvania Public Utility Commission in the above-referenced case. Copies have been served on the parties of record in accordance with the Certificate of Service.

Sincerely,



Adam D. Young
Prosecuting Attorney
Attorney ID No. 91822

Counsel for the Bureau of
Investigation and Enforcement

Enclosures

cc: As per Certificate of Service

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**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission :
Bureau of Investigation and Enforcement :
: **Docket No. C-2012-2219127**
v. :
: **The Yellow Cab Company of Pittsburgh** :

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**REPLY TO THE MOTION TO STRIKE THE UNTIMELY REPLY TO NEW
MATTER OF THE PUC**

AND NOW comes the Pennsylvania Public Utility Commission's ("Commission") Bureau of Investigation and Enforcement ("I&E") and files this Reply to the Motion to Strike the Untimely Reply to New Matter of the PUC, filed by the Yellow Cab Company of Pittsburgh ("Yellow Cab" or "Respondent"), on August 7, 2012. In support thereof, I&E avers as follows:

1. I&E's Reply to New Matter was due February 9, 2012. Counsel for I&E had several cases assigned, which were cases against Yellow Cab of Pittsburgh, and inadvertently made a notation in this case regarding proposed settlement. That notation was intended for a different case, and as a result of putting the notation in the wrong case, the Reply to New Matter was overlooked.

2. Although the Reply to New Matter was filed late, no substantive harm has befallen Respondent due to the delay, and Respondent will still be able to argue the merits of its legal issues raised in the New Matter:

3. Respondent's "New Matter" raises only questions of law, largely based upon Fourth, Fifth, and Sixth Amendment grounds, none of which amount to affirmative

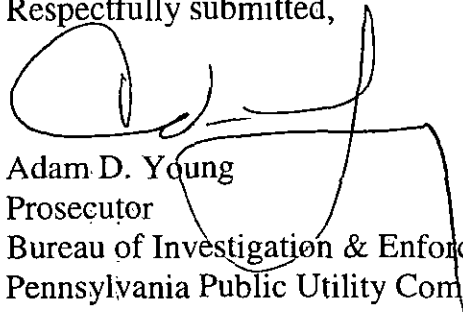
defenses, and none of which apply to this administrative proceeding. Moreover, the “New Matter” raises no additional factual allegations, beyond those raised by general denial in its Answer, to which I&E could have responded, had the response been timely.

4. Not only does Respondent’s “New Matter” not raise any additional factual allegations necessitating a response by I&E that weren’t already raised in Respondent’s general denials in its Answer, but Respondent’s “New Matter” raises the *same* fallacious legal arguments that it raises in every complaint proceeding filed before this Commission. Respondent’s “New Matter” raises only issues of law, which Respondent has previously raised before this Commission in numerous proceedings, and has had ample opportunity to argue. The Commission has rejected these same legal arguments in previous proceedings, and there’s no reason to believe the outcome would be different in this case.

5. Contrary to Respondent’s request, the Commission cannot “deem admitted” the legal arguments set forth in its “New Matter,” when these legal arguments are clearly erroneous. The Fourth, Fifth and Sixth amendment rights (and as summarized in the Miranda warnings) are not applicable to this proceeding, and are clearly not applicable to inspections or investigations by enforcement officers. Respondent, in having the *privilege* of possessing a Certificate of Public Convenience issued by this Commission, has voluntarily subjected itself to the provisions of the Public Utility Code and its regulations, including 66 Pa. C.S. §§ 505 and 506. This was not a custodial interrogation, rather 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 warnings prior to interviewing Respondent, its employees, and/or its lease drivers. No constitutional or due process rights were violated, and the Commission cannot, as a matter of law, deem them violated on a technicality.

6. Respondent has not been harmed by this oversight in any manner, and will have ample opportunity to, once again, argue the merits of the issues of law raised in its "New Matter" before an Administrative Law Judge. Respondent has not been denied a just, speedy or inexpensive determination of this matter. The late filing has not affected the timeframe in which a hearing would have been set in this matter under normal circumstances. In essence, nothing in this case has been remotely affected by this, and Respondent will still have an opportunity to argue its due process claims at a hearing.

Respectfully submitted,



Adam D. Young
Prosecutor
Bureau of Investigation & Enforcement
Pennsylvania Public Utility Commission

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Harrisburg, PA 17105-3265

Date: August 14, 2012

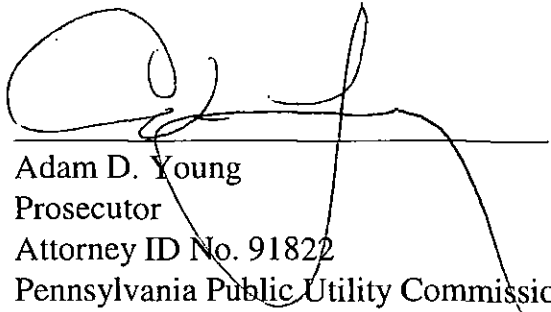
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CERTIFICATE OF SERVICE

I hereby certify that I am this day serving the foregoing document, Reply to Motion to Strike Untimely Reply to New Matter, upon the persons listed and in the manner indicated below:

Service by First Class Mail:

Ray F. Middleman, Esq.
Malone Middleman P.C.
Northridge Office Plaza
117 VIP Drive, Suite 310
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Adam D. Young
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Dated: August 14, 2012

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