



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

IN REPLY PLEASE  
REFER TO OUR FILE

October 2, 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. Mountain High Transportation Group, Inc.  
Docket No. C-2012-2290725 -

Dear Secretary Chiavetta,

Enclosed for filing, please find an original copy of the Bureau of Investigation and Enforcement's (I&E) Motion for Change of Hearing from in Person to Telephonic in the above-captioned matter.

Copies have been served on the parties of record in accordance with the Certificate of Service. Should you have any questions, please feel free to contact me.

Sincerely,

Michael L. Swindler, Prosecutor  
Pennsylvania Public Utility Commission  
-Bureau of Investigation and Enforcement  
(717) 783-6369  
[mwindler@pa.gov](mailto:mwindler@pa.gov)

Enclosures

cc: Certificate of Service

PA PUC  
SECRETARY'S BUREAU

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**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission,	:	
Bureau of Investigation and Enforcement	:	
	:	
v.	:	Docket No. C-2012-2290725
	:	
Mountain High Transportation Group Inc.	:	

**MOTION FOR CHANGE OF HEARING  
FROM IN PERSON TO TELEPHONIC**

NOW COMES, the Bureau of Investigation & Enforcement (“I&E”) of the Pennsylvania Public Utility Commission (“Commission”), Complainant in the above proceeding, by and through counsel, and hereby moves as follows:

1. On or about February 29, 2012, the Commission’s Bureau of Investigation and Enforcement (“I&E”) filed the above-docketed complaint against Mountain High Transportation Group Inc. (“Mountain High”) for failure to maintain evidence of insurance with the Commission. As a result, Mountain High’s certificate of authority was suspended and Mountain High was directed to pay a fine of \$500. The hand-written letter of Kenneth Wimberly was filed as Mountain High’s Answer to the Commission complaint on March 9, 2012.
2. On or about May 22, 2012, the Commission sent a “Notice to Lift Suspension of PUC Operating Authority” to Mountain High since evidence of liability insurance coverage had been received. By letter

dated July 11, 2012 from the undersigned to Mr. Wimberly, principal of Mountain High, Mountain High was advised that the Commission's action to lift its suspension did not eliminate the complaint filed against it for failure to maintain evidence of insurance with the Commission and that, as such, the fine of \$500 remained due. Mountain High was advised that if the fine was paid, the hearing could be avoided.

3. By hearing notice sent to both parties dated August 16, 2012, the *Commission has scheduled an in-person hearing before Administrative Law Judge Angela T. Jones for Friday, October 12, 2012, at 10 a.m. in an available 4<sup>th</sup> floor hearing room at 801 Market Street, Philadelphia, PA.*
4. On September 29, 2012, the undersigned initiated a telephone call to Mr. Kenneth Wimberly, principal of Mountain High. The primary purpose of the telephone call was to ascertain whether there was any chance of settlement, as encouraged by ALJ Jones in her Prehearing Order, Paragraph 7, dated August 20, 2012 (and in the Corrected Prehearing Order, Paragraph 8, dated September 27, 2012). The following information was gleaned from the telephone conversation:
  - a. Mr. Wimberly is aware of the hearing scheduled for October 12, 2012.
  - b. Mountain High, a corporation in an adversarial proceeding, has made no effort to secure counsel to represent Mountain High at the scheduled hearing, as required by 52 Pa. Code § 1.21.

Consequently, as of this date, no notice of appearance has been filed on behalf of Mountain High and no notice of appearance of counsel is anticipated.

- c. Mr. Wimberly would prefer to avoid a hearing if he could secure the funds necessary to pay the outstanding fine that is the subject of the above-docketed complaint. Mr. Wimberly indicated that he intended to make a good faith effort to secure all or part of the necessary funds prior to the hearing date.
  - d. Upon the inquiry of the undersigned as to whether Mr. Wimberly would object if a request was made to the assigned administrative law judge to change the scheduled hearing from in-person to telephonic, Mr. Wimberly indicated that he did not object. As such, the instant Motion is unopposed.
5. In addition to the above information gleaned from Respondent, I&E further notes that I&E counsel and I&E's witness, Mr. Robert Bingaman, would be forced to incur travel expenses for their round trips from Harrisburg to Philadelphia as well as the considerable time incurred in order to attend an in-person hearing that will take them away from other pending matters.
6. Accordingly, whereas there is a distinct possibility that I&E counsel and witness would likely travel to Philadelphia for a matter involving a \$500 fine, only to have the complaint dismissed for Complainant's failure to be represented by counsel as required, I&E hereby respectfully requests by

filing this unopposed Motion that ALJ Jones grant said Motion and thereby change the in-person hearing scheduled for October 12, 2012, to a telephonic hearing at the same scheduled date and time. Moreover, even if Mountain High should be represented by counsel, I&E posits that it would still be appropriate under the circumstances to conduct the hearing telephonically.

7. Lastly, I&E notes that telephonic hearings are often held in Commission matters for the convenience of the parties and the presiding officer, where the parties do not object and where the matters are not so complex as to demand an in-person evidentiary hearing. Moreover, holding a formal, evidentiary hearing by telephone in no way diminishes the right of the Parties to a fair and equitable hearing.

**WHEREFORE,** The Pennsylvania Public Utility Commission's Bureau of Investigation and Enforcement respectfully requests that the in-person hearing scheduled in the above matter at Docket No. C-2012-2290725 to be held on October 12, 2012, be changed to a telephonic hearing at the same date and time.



Michael L. Swindler, Prosecutor  
PA Attorney ID No. 43319  
PA Public Utility Commission  
Bureau of Investigation and Enforcement

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

Date: October 2, 2012

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## CERTIFICATE OF SERVICE

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

### Notification by First Class and Electronic Mail:

Administrative Law Judge  
Angela T. Jones  
PA Public Utility Commission  
Office of Administrative Law Judge  
801 Market Street  
Philadelphia, PA 19107

### Notification by First Class Mail:

Kenneth C. Wimberly, President  
Mountain High Transportation Group,  
Inc.  
2603 Elroy Road, Apt. C7  
Hatfield, PA 19440-3909

Kenneth C. Wimberly, President  
Mountain High Transportation Group,  
Inc.  
155 E. Godfrey Avenue, Suite P604  
Philadelphia, PA 19120



Michael L. Swindler  
Prosecutor  
PA Attorney ID No. 43319

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Dated: October 2, 2012