

PENNSYLVANIA PUBLIC UTILITY COMMISSION
Harrisburg, Pennsylvania 17105-3265

PA PUC, BI&E
v.
William C. Sutton

Public Meeting held January 24, 2013
2316212-OSA

Docket No. C-2012-2316212

JOINT MOTION OF COMMISSIONER WAYNE E. GARDNER AND
COMMISSIONER PAMELA A. WITMER


Before the Commission for consideration is a Petition for Appeal from Staff Action filed by William C. Sutton. A Formal Complaint was served on Mr. Sutton on August 9, 2012, alleging that he failed to maintain evidence of liability insurance on file with the Commission, a violation of the Public Utility Code at 66 Pa C.S. §512, 52 Pa. Code §32.2(c), and 52 Pa. Code §32.11(a), §32.12(a) or §32.13(a). The Complaint, instituted by the Bureau of Investigation and Enforcement (BI&E), recommends the imposition of a \$500 penalty. Mr. Sutton did not file an Answer to the Complaint nor did he pay the fine.

On August 17, 2012, Mr. Sutton's insurer filed evidence of insurance with an effective date of July 17, 2012. On September 13, 2012, the Commission issued a Secretarial Letter sustaining the Complaint and directing Mr. Sutton to pay the \$500 penalty. On October 3, 2012, Mr. Sutton filed the Petition for Appeal from Staff Action. In his Petition, Mr. Sutton asks that the penalty be reconsidered. Mr. Sutton indicated that he has not had a lapse in insurance in over ten years of coverage, and our records support that claim.

While we agree with the staff recommendation that a penalty is warranted, we do not agree that Mr. Sutton's Petition should be fully denied. Accordingly, we recommend reducing the penalty to \$250. It is evident that Mr. Sutton has been diligent in attempting to adhere to our regulations, and at no time was there a lapse in insurance. Our records indicate that since his certification in 2001, Mr. Sutton has had an excellent compliance history. Upon notification of the cancellation, he immediately took action by contacting his insurer. Mr. Sutton was assured by his agent that the matter was their error and would be immediately rectified. Mr. Sutton mistakenly assumed that the action of his insurance company adequately resolved the matter and he failed to file an Answer to the Complaint. We agree that it is the responsibility of this Commission to make certain that any carrier providing transportation for compensation to the public has adequate insurance, but we also believe we have the discretion to reduce fines in cases where the carrier has an excellent compliance history and was in fact, never without insurance coverage.

THEREFORE, WE MOVE THAT:

1. That Mr. Sutton be directed to pay a civil penalty in the amount of \$250.
2. That the Office of Special Assistants prepare an Opinion and Order consistent with this motion.


Wayne E. Gardner, Commissioner


Pamela A. Witmer, Commissioner

Date: January 24, 2013