



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

IN REPLY PLEASE
REFER TO OUR FILE

January 24, 2013

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

Re: Pennsylvania Public Utility Commission, Bureau of Transportation
& Safety v. Cawley Bros. Van Lines, Inc.
Docket No. C-2011-2235323

Dear Secretary Chiavetta:

Enclosed for filing is an original copy of a **Petition for Leave to Withdraw the Bureau of Transportation & Safety's Complaint** in the above-referenced case. Copies have been served on the parties of record in accordance with the Certificate of Service.

Sincerely,

Stephanie M. Wimer
Prosecutor

Enclosure

cc: As per certificate of service

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**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission, :	:	
Bureau of Transportation & Safety :	:	
	:	
v. :	:	C-2011-2235323
	:	
Cawley Bros Van Lines, Inc. :	:	

**PETITION FOR LEAVE TO WITHDRAW THE BUREAU OF
TRANSPORTATION & SAFETY'S COMPLAINT**

AND NOW comes the Bureau of Transportation and Safety (BTS)¹ of the Pennsylvania Public Utility Commission (Commission), by and through its attorney, Stephanie Wimer, and files this Petition for Leave to Withdraw the Complaint in the above-captioned proceeding, pursuant to Section 5.94(a) of the Commission's regulations, 52 Pa. Code § 5.94(a). In support thereof, BTS states as follows:

1. On May 4, 2011, BTS filed a complaint against Cawley Bros. Van Lines, Inc. (Respondent) alleging that Respondent failed to pay the Commission's assessment for the 2007-2008, 2008-2009, 2009-2010 and 2010-2011 fiscal years. BTS' complaint alleges that Respondent owes an outstanding assessment balance of \$9,911.
2. After filing this complaint, BTS became aware that Respondent filed a Voluntary Petition for Relief under Chapter 7 of the United States Bankruptcy Code, 11 U.S.C.S. §§ 701 *et seq.*

¹ The Law Bureau Prosecutory Staff (Prosecutory Staff) represented BTS in this proceeding. Effective August 11, 2011, the prosecutory functions of the Law Bureau and the Motor Carrier Enforcement Division of BTS were transferred to the Bureau of Investigation and Enforcement pursuant to the Commission's reorganization. *See Implementation of Act 129 of 2008 Organization of Bureaus and Offices*, Docket No. M-2008-2071852 (Order entered August 11, 2011). As this Complaint was issued prior to the Commission's reorganization, the parties will be referenced as Prosecutory Staff and BTS.

3. Respondent's bankruptcy petition was filed on November 23, 2011, in the Middle District of Pennsylvania at Docket No. 5:11-bk-07847-RNO.

4. BTS' action to collect Respondent's outstanding assessment balance, which occurred prior to the date that Respondent filed for bankruptcy, is subject to the automatic stay provisions of the Bankruptcy Code. 11 U.S.C.S. § 362(a).

5. Section 362(a) provides that the filing of a petition for relief under the Bankruptcy Code operates as a stay of the commencement or continuation of a judicial, administrative or other proceeding against the debtor that was brought before the commencement of the bankruptcy case. *Id.*

6. The above-captioned complaint was scheduled for an initial hearing before Administrative Law Judge (ALJ) Ember S. Jandebour on Wednesday, November 14, 2012, at 10:00 a.m. in the Scranton State Office Building.

7. On November 5, 2012, BTS filed a Motion for Continuance of the initial hearing and requested that the proceeding be stayed until Respondent's bankruptcy case is closed or dismissed, or until the time that a discharge is granted or denied, pursuant to 11 U.S.C.S. § 362(c)(2)(A)-(C).

8. In that motion, BTS offered to provide the ALJ with periodic updates of Respondent's bankruptcy proceeding, such as once every six months.

9. While there was no written ruling on BTS' motion, the initial hearing that was scheduled for November 14, 2012 was cancelled and re-scheduled for January 22, 2013.

10. Prior to the January 22, 2013 Initial Hearing, BTS conferred with Respondent's bankruptcy trustee and the ALJ. Thereafter, the Initial Hearing that was scheduled on

January 22, 2013 was cancelled and the matter was continued for ninety (90) days due to the continuation of Respondent's bankruptcy proceeding.

11. BTS anticipates that another Initial Hearing will be scheduled in the near future.

At the same time, Respondent's bankruptcy proceeding remains active and BTS is precluded from seeking collection of Respondent's unpaid assessments.

12. Given that BTS' action to collect Respondent's outstanding assessments is subject to the automatic stay provisions of the Bankruptcy Code, BTS petitions to withdraw its complaint, without prejudice.

13. Should Respondent's bankruptcy proceeding conclude and assets remain, BTS reserves the right to bring another action to collect Respondent's unpaid assessments.

WHEREFORE, for the foregoing reasons, BTS respectfully requests that the Complaint in this proceeding be withdrawn and the matter marked closed.

Respectfully submitted,



Stephanie M. Wimer
Prosecutor
Attorney I.D. No. 207522

Counsel for the Pennsylvania
Public Utility Commission, Bureau of
Transportation & Safety

P.O. Box 3265
Harrisburg, PA 17105-3265
(717) 772-8839

DATED: January 24, 2013

CERTIFICATE OF SERVICE

I hereby certify that I am this day serving the foregoing document, Petition for Leave to Withdraw the Bureau of Transportation and Safety's Complaint, upon the persons listed and in the manner indicated below, which service satisfies the requirement of 52 Pa.Code § 1.54 (relating to service by a participant):

Service by First Class Mail:

The Honorable Ember Jandebaur
Pennsylvania Public Utility Commission
Office of Administrative Law Judge
Scranton State Office Building
Room 317, 100 Lackawanna Avenue
Scranton, PA 18503

Mark J. Conway, Esq.
502 South Blakely Street
Dunmore, PA 18512

John L. Siejk, Esq.
201 S. Blakely St. #331
Dunmore, PA 18512



Stephanie M. Wimer
Prosecutor
Attorney I.D. No. 207522

Counsel for the Pennsylvania
Public Utility Commission, Bureau of
Transportation & Safety

P.O. Box 3265
Harrisburg, PA 17105-3265
Phone: (717) 772-8839

Dated: January 24, 2013