



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

IN REPLY PLEASE
REFER TO OUR FILE

July 29, 2014

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. Marsden L. Ayres t/a Ayres Trucking & Son
Docket No. C-2014-2412509

Dear Secretary Chiavetta:

Enclosed for electronic filing is the Motion for Default Judgment of the Bureau of Investigation and Enforcement of the Pennsylvania Public Utility Commission in the above-captioned matter.

Copies have been served on the parties of record in accordance with the Certificate of Service.

Sincerely,

A handwritten signature in blue ink, appearing to read "Stephanie M. Wimer", is written over a horizontal line.

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

Enclosure

cc: As per certificate of service

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission,	:	
Bureau of Investigation and Enforcement	:	
Complainant	:	
	:	Docket No. C-2014-2412509
v.	:	
	:	
Marsden L. Ayres t/a Ayres Trucking & Son	:	
Respondent	:	

NOTICE TO PLEAD

Pursuant to 52 Pa. Code §5.103, the Bureau of Investigation and Enforcement (I&E) of the Pennsylvania Public Utility Commission (Commission) has filed a Motion for Default Judgment in the above-captioned matter. You are hereby notified to file a written response within twenty (20) days of the service of the Motion, consistent with Commission procedural regulations at 52 Pa. Code §5.61.

Your Answer must be verified and the original sent to:
Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

Additionally, you must serve a copy on:
Wayne T. Scott
First Deputy Chief Prosecutor
Pennsylvania Public Utility Commission
Bureau of Investigation and Enforcement
P.O. Box 3265
Harrisburg, PA 17105



Stephanie M. Wimer
Prosecutor
PA Attorney I.D. 207522

Bureau of Investigation and Enforcement
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265
(717) 772-8839

Dated: July 29, 2014

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission,	:	
Bureau of Investigation and Enforcement	:	
Complainant	:	
	:	Docket No. C-2014-2412509
v.	:	
	:	
Marsden L. Ayres t/a Ayres Trucking & Son	:	
Respondent	:	

MOTION FOR DEFAULT JUDGMENT

NOW COMES the Pennsylvania Public Utility Commission’s (“Commission”) Bureau of Investigation and Enforcement (“I&E”), by its prosecuting attorneys, and files this Motion for Default Judgment against Marsden L. Ayres t/a Ayres Trucking & Son (“Respondent”) pursuant to Section 5.103 of the Commission’s regulations, 52 Pa. Code §5.103. In support thereof, I&E respectfully represents as follows:

1. I&E commenced this action on March 26, 2014 by filing a Complaint.
2. On March 27, 2014, the Complaint was served by certified mail to Respondent at 3161 Baileycornes Road Troy, PA 18832.
3. This is the last known main mailing address that Respondent provided to the Commission.
4. On April 18, 2014, the Complaint was returned to the Commission by the United States Post Office and was marked as “Return to Sender; Unclaimed; Unable to Forward.”
5. On April 24, 2014, the Complaint was re-served to Respondent at 3161 Baileycornes Road Troy, PA 18832.
6. While there is no record that this Complaint was returned to the Commission, I&E was unable to obtain certification that Respondent received the Complaint.

7. Pursuant to the Commission's procedural regulations at 52 Pa. Code §1.53(e), the Complaint was published in the Pennsylvania Bulletin on June 14, 2014. *See* 44 *Pa. Bull.* 3667 (June 14, 2014).
8. Included with the Complaint was a Notice advising Respondent that it must file an Answer within twenty (20) days.
9. The Notice also advised Respondent that if it failed to answer the Complaint, I&E would request that the Commission issue an Order imposing the penalty set forth in the Complaint.
10. Respondent did not file an Answer to the Complaint.
11. Pursuant to Section 5.61(c) of the Commission's regulations, a Respondent who fails to file an Answer to a Complaint within the 20-day response period may be deemed in default, and the relevant facts stated in the Complaint may be deemed admitted. 52 Pa. Code §5.61(c).
12. The Commonwealth Court has upheld the Commission's authority to sustain complaints that are not answered within twenty days. *See Fusaro v. Pa. PUC*, 382 A.2d 794, 797 (Pa. Cmwlth. 1978).
13. Respondent did not pay the \$3,000 civil penalty that was requested in the Complaint for Respondent's failure to file 2010, 2011 and 2012 assessment reports.

14. I&E respectfully requests that the Commission enter a Default Order against Respondent that:

- a. Directs Respondent to pay the \$3,000 civil penalty within thirty (30) days of the entry date of the Commission's Order; and
- b. Directs the Bureau of Technical Utility Services to cancel Respondent's certificate of public convenience at A-2010-2188594 if the civil penalty is not timely paid.

Respectfully submitted,



Stephanie Wimer
Prosecutor
PA Attorney ID # 207522
Bureau of Investigation and Enforcement


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

Date: July 29, 2014

VERIFICATION

I, Mandy Freas, Accountant, Bureau of Administrative Services, Assessment Section, hereby state that the facts above set forth are true and correct to the best of my knowledge, information, and belief and that I expect the Bureau will be able to prove the same at any hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa. C.S. §4904 relating to unsworn falsification to authorities.

Date: July 29, 2014



Mandy Freas, Accountant
Assessment Section
Bureau of Administrative Services
PA. Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

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 *et seq.* (relating to service by a party).

Service by First Class Mail:

Marsden L. Ayres, President
Marsden L. Ayres t/a Ayres Trucking & Son
3161 Baileycornes Road
Troy, PA 18832



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

Pennsylvania Public Utility Commission
Bureau of Investigation and Enforcement
P.O. Box 3265
Harrisburg, PA 17105-3265
(717) 772-8839

Dated: July 29, 2014