



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

IN REPLY PLEASE
REFER TO OUR FILE

July 22, 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. Eric W. Smith
Docket No. C-2014-2418599

Dear Secretary Chiavetta:

Enclosed for filing is the Reply to New Matter on behalf of the Bureau of Investigation and Enforcement of the Pennsylvania Public Utility Commission in the above-referenced 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
PA Attorney ID No. 43319

Enclosure

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,	:	
Complainant,	:	
	:	C-2014-2418599
v.	:	
	:	
Eric W. Smith,	:	
Respondent	:	

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REPLY TO NEW MATTER

TO THE HONORABLE PENNSYLVANIA PUBLIC UTILITY COMMISSION:

NOW COMES, the Bureau of Investigation and Enforcement (“I&E”) of the Pennsylvania Public Utility Commission (“Commission”), Complainant in the above-docketed matter, by and through its prosecuting attorneys, and replies to the New Matter of Eric W. Smith (“Respondent”), pursuant to 52 Pa. Code § 5.63(a). In support thereof, I&E avers as follows:

Background

On June 6, 2014, I&E’s Motor Carrier Enforcement Division filed a Complaint against Respondent at Docket No. C-2014-2418599, alleging that Respondent violated the Public Utility Code, 66 Pa.C.S. § 1101, by transporting passengers for compensation between points in the Commonwealth of Pennsylvania while not then holding a certificate of public convenience issued by the Commission. Respondent was advised to file an Answer within twenty (20) days of receipt of the Complaint. Counsel for

Respondent sought an extension of time until July 3, 2014 to answer the Complaint and the Commission issued a Secretarial Letter granting the request. On July 3, 2014, Respondent filed its Answer with New Matter, at the above docket.

To the extent that there are factual and legal discrepancies or differences between I&E's Complaint and Respondent's Answer, I&E fully intends to address those matters at hearing and in brief.

REPLY TO NEW MATTER

1. Denied. I&E, is without knowledge sufficient to form a belief as to the truth of the matters asserted and the same are therefore denied and proof thereof demanded. By way of further reply, it is well-settled that ignorance of the law is not a valid excuse for failing to comply with the law. *Application of Carol Ann Maloni, t/d/b/a Keystone Courier, for the Right to Begin to Transport, as a Common Carrier, by Motor Vehicle, Medical Supplies, Printed Material, Insurance and Legal Documents, between Points in the Counties of Allegheny, Butler, Westmoreland, Beaver and Washington, and from Points in said Counties to Points in Pennsylvania, and Vice Versa*, Docket No. A-00109104 (Order entered April 8, 1992); *In re: Objections of Molnar Hauling, Inc.: Assessments*, Docket No. M-00981091 (Order entered March 2, 2000).

2. Denied. This averment sets forth a legal conclusion to which no response is required. As to the remainder of Respondent's New Matter, I&E, is without knowledge sufficient to form a belief as to the truth of the matters asserted and the same are therefore denied and proof thereof demanded.

WHEREFORE, the Bureau of Investigation and Enforcement respectfully requests that the Commission dismiss Respondent's Answer and New Matter and sustain I&E's Complaint.

Respectfully submitted,



Michael L. Swindler
Prosecutor
PA Attorney ID No. 43319

Stephanie M. Wimer
Prosecutor
PA Attorney ID No. 207522

Wayne T. Scott
First Deputy Chief Prosecutor
PA Attorney ID No. 29133

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Dated: July 22, 2014

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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 Mail:

David P. Zambito
D. Troy Sellars
Cozen O'Connor
305 North Front Street, Suite 400
Harrisburg, PA 17101-1236



Michael L. Swindler
Prosecutor
PA Attorney ID No. 43319

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