**BEFORE THE**

**PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Application of Appalachian Movers, LLC :

For the right to begin transport, as a :

common carrier, by motor vehicle, : Docket No. A-2014-2418497

household goods in use, between points in :

Centre County. :

**ORDER DENYING PETITION TO INTERVENE**

In accordance with the provisions of 52 Pa. Code § 5.483 and § 5.75(b), the purpose of this Order is to deny the Petition to Intervene filed in this case on August 13, 2014 by Hoy Transfer, Inc. (Hoy or Petitioner).

On April 4, 2014, Appalachian Movers, LLC (Appalachian or Applicant) filed an Application with the Commission for the right to begin transport, as a common carrier, by motor vehicle, household goods in use, between points in Centre County, Pennsylvania. Notice of the Application was duly published in the *Pennsylvania Bulletin*, with protests due to the Commission (copy to be served on the Applicant), on or before June 23, 2014. See 44 Pa.B. 3480 The Commission’s regulation at 52 Pa. Code §5.74(b)(2) requires that Petitions to Intervene be filed “No later than the date fixed for filing protests as published in the *Pennsylvania Bulletin* except for good cause shown.”

On August 13, 2014, Hoy filed a Petition to Intervene in this case, averring that while a Protest had been timely prepared and Hoy’s counsel thought that the Protest had been filed, it was not. Hoy argues that this was an administrative oversight. Hoy argues that because two other parties have filed Protests, there will be no harm to Appalachian if Hoy’s intervention is granted.

On September 25, 2014, Appalachian filed an Answer to Hoy’s Petition.[[1]](#footnote-1) In that Answer, Appalachian argued that Hoy’s Petition should be denied as untimely and lacking a sufficient justification for the late-filing. Appalachian specifically cited the case of *Re Pennsylvania-American Water Company,* Docket No. A-212285F0096, A-230073F0004 (Order Entered May 9, 2002), and its four factor test for granting late-filed interventions (1) the Petitioner has a reasonable excuse for missing the deadline; (2) the proceeding is contested at the time of filing; (3) granting the intervention will not delay the orderly progress of the proceeding; and (4) filing will not broaden the issues or shift the burden of proof.

While Hoy’s failure to timely file a Protest to the application may have been inadvertent, that excuse is not reasonable. This is not a case where a filing was a day late. As Appalachian points out, the Petition to Intervene was filed seven weeks late. It also appears that the Petition was also filed without a Notice to Plead. Finally, granting the Petition, which is essentially a late-filed Protest, would expand the scope of this proceeding and broaden the issues.[[2]](#footnote-2) In sum, Hoy has failed to show good cause for its deficiency.

THEREFORE;

IT IS ORDERED:

1. That the Petition to Intervene filed August 13, 2014 by Hoy Transfer, Inc. is denied.

Dated: October 16, 2014

Dennis J. Buckley

Administrative Law Judge

**A-2014-2418497 - Application of Appalachian Movers, LLC for the right to begin to transport, as a common carrier, by motor vehicle, household goods in use, between points in Centre County** THOMAS DILELLAAPPALACHIAN MOVERS LLC221 BELLE AVEBOALSBURG PA 16827**814.650.7293**

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*Representing Hoy Transfer, Inc.*

1. Appalachian’s Answer was itself late-filed, but Appalachian contends that Hoy did not serve a Notice to Plead with its Petition and therefore, Appalachian, which was unrepresented at the time, was not aware of its obligation or opportunity to object to Hoy’s Petition. [↑](#footnote-ref-1)
2. While Hoy contends that with two other Protests filed by other parties, Hoy’s Petition/Protest would not broaden the issues in this case. There is no basis provided for this contention as Hoy offered no analysis of those Protests or comparison with its own. [↑](#footnote-ref-2)