



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

IN REPLY PLEASE
REFER TO OUR FILE

December 23, 2014

Via Electronic Filing

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. Glenn's Inc.
Docket No. C-2014-2413366
Motion to Strike

Dear Secretary Chiavetta:

Enclosed for electronic filing is the Bureau of Investigation and Enforcement's Motion to Strike the Answer of Glenn's Inc. in the above-captioned matter.

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

Should you have any questions, please do not hesitate to contact me.

Sincerely,

A handwritten signature in blue ink that reads "Stephanie M. Wimer".

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	:	
	:	
v.	:	Docket No. C-2014-2413366
	:	
Glenn's, Inc.,	:	
Respondent	:	

NOTICE TO PLEAD


To: *Glenn Adams, President of Glenn's Inc.*

You are hereby notified to file a written response to the attached Motion to Strike of the Bureau of Investigation and Enforcement (I&E) within twenty (20) days from the date of service of this notice. If you do not file a written response denying the enclosed Motion to Strike within twenty (20) days of service, the presiding officers may rule in favor of I&E on the attached Motion without a hearing.

All pleadings, such as answers to motions, must be filed with the Secretary of the Pennsylvania Public Utility Commission:

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

You must also serve a copy of your response on the undersigned prosecutor.



Stephanie M. Wimer, Prosecutor
PA Attorney ID No. 207522

Bureau of Investigation & Enforcement
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265
Dated: December 23, 2014

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission,	:	
Bureau of Investigation and Enforcement,	:	
Complainant,	:	
	:	
v.	:	C-2014-2413366
	:	
Glenn's, Inc.,	:	
Respondent	:	

**THE BUREAU OF INVESTIGATION AND ENFORCEMENT'S
MOTION TO STRIKE THE ANSWER OF GLENN'S, INC.**

TO THE OFFICE OF ADMINISTRATIVE LAW JUDGE AND THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION:

Pursuant to Section 5.103(a) of the Commission's regulations, 52 Pa. Code § 5.103(a), the Bureau of Investigation and Enforcement (I&E) of the Pennsylvania Public Utility Commission (Commission), through its prosecuting attorneys, files this Motion to Strike the untimely and unresponsive Answer of Glenn's Inc. (Respondent) to the Formal Complaint (Complaint) in the above-referenced proceeding. In support thereof, I&E avers as follows:

1. On March 31, 2014, I&E filed a Complaint against Respondent. I&E's Complaint was served on Respondent by Secretarial Letter that same day.
2. In the Complaint, I&E alleges that Respondent violated Section 510(b) of the Public Utility Code, 66 Pa. C.S. § 510(b), which requires Respondent to file a statement under oath on or before March 31 of each year that shows its gross intrastate operating revenues for the preceding calendar year. I&E alleges that Respondent failed

to file assessment reports demonstrating its gross intrastate operating revenues for the 2010, 2011 and 2012 calendar years and seeks a civil penalty of \$3,000, which represents \$1,000 for each year in which Respondent did not file an assessment report.

3. Pursuant to 52 Pa. Code § 5.61(a), Respondent's answer to I&E's Complaint was due within twenty (20) days, or by April 21, 2014.

4. On May 31, 2014, two months after I&E's Complaint was filed and served, Respondent replied.¹ Respondent provided no explanation for its late filing.

5. Moreover, Respondent did not serve a copy of its Answer upon I&E as it is obligated to do pursuant to 52 Pa. Code § 1.54. No Certificate of Service is included with its Answer. In fact, I&E was not aware of Respondent's Answer until recently.

6. Further, Respondent's Answer does not respond to the allegations set forth in I&E's Complaint.

7. Section 5.61(b) of the Commission's regulations establishes the following requirements pertaining to the form of an answer:

Forms of answers to complaints. The answer must be in writing and:
(1) Set forth in paragraphs numbered to correspond with the complaint.
(2) Advise the parties and the Commission as to the nature of the defense.
(3) Admit or deny specifically all material allegations of the complaint.
(4) State concisely the facts and matters of law relied upon.
(5) Include a copy of a document, or the material part of a document when relied upon in the answer. If the writing or copy is not available, the answer must set forth that the document is not available and the reason, and set forth the substance of the document.

52 Pa. Code § 5.61(b).

¹ When I&E filed the Complaint, I&E properly included a Notice to Plead advising Respondent that a response was required within twenty (20) days.

8. Respondent's Answer consists of a series of documents, as follows: (1) A Notice of Delinquent 2014 Unified Carrier Registration; (2) a 2010 assessment report that was signed and notarized on February 18, 2014²; (3) a 2011 assessment report that was signed and notarized on February 18, 2014;³ and (4) a 2012 assessment report that was signed and notarized on February 18, 2014.⁴

9. Respondent's Answer is not numbered, does not provide a defense to the allegations, does not admit or deny the allegations and does not state the facts and the law that was relied upon. If anything, the documents that Respondent provided as its answer demonstrate that it violated Section 510(b) of the Public Utility Code, 66 Pa. C.S. § 510(b), by failing to file assessment reports by March 31 of each year that demonstrate gross intrastate operating revenues earned during the preceding year.

10. Respondent's Answer is untimely and does not respond to I&E's Complaint. As such, it should be stricken.

² The 2010 assessment report was due to be filed with the Commission on or before March 31, 2011.

³ The 2011 assessment report was due to be filed with the Commission on or before March 31, 2012.

⁴ The 2012 assessment report was due to be filed with the Commission on or before March 31, 2013.

WHEREFORE, for the reasons set forth above, the Bureau of Investigation and Enforcement respectfully requests that the Office of Administrative Law Judge and Commission strike the Answer of Glenn's, Inc. and sustain I&E's Complaint.

Respectfully submitted,



Stephanie M. Wimer
Prosecutor
PA Attorney ID No. 207522

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

Bureau of Investigation & Enforcement
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265
(717) 787-5000
stwimer@pa.gov
wascott@pa.gov

Dated: December 23, 2014

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).

Service by First Class Mail and Email:

Glenn Adams
Glenn's Inc.
354 Awol Road
Jonestown, PA 17038



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

Pennsylvania Public Utility Commission
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Dated: December 23, 2014