



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

January 28, 2015

**Via E-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. Unique Limousine Service, Inc.  
Docket No. C-2014-2459327  
**I&E Reply to New Matter**

Dear Secretary Chiavetta:

Enclosed for electronic filing is the Bureau of Investigation and Enforcement's Reply to the New Matter of Unique Limousine Service, Inc. in the above-referenced proceeding. 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, appearing to read "Kourtney L. Myers".

Kourtney L. Myers  
Prosecutor  
PA Attorney ID No. 316494

Enclosure

cc: As per Certificate of Service



with the invoices and orders by not making timely and complete payments. Accordingly, on December 23, 2014, I&E filed a Formal Complaint against Unique at Docket No. C-2014-2459327 alleging that Unique violated Section 510(c) of the Public Utility Code, 66 Pa.C.S. § 510(c), by failing to fully and timely pay the Commission's assessments. I&E alleges that Unique has an outstanding balance of \$28,545 related to the Commission's assessments for the July 1, 2010 to June 30, 2011 fiscal year (FY 2010/11), July 1, 2011 to June 30, 2012 fiscal year (FY 2011/12), July 1, 2012 to June 30, 2013 fiscal year (FY 2012/13), and July 1, 2013 to June 30, 2014 fiscal year (FY 2013/14). Regarding relief, I&E seeks payment of Respondent's outstanding assessment balance of \$28,545, as well as a civil penalty of 15% of the outstanding balance or \$2,415. On January 9, 2015, Unique filed its Answer with New Matter at the above docket.

## **II. REPLY TO NEW MATTER**

39. Denied. To the extent that Respondent attempts to incorporate any and all assertions made in paragraphs 1-38 of its Answer as New Matter, this is denied. Pursuant to 52 Pa. Code § 5.62, affirmative defenses must be set forth under the heading of "New Matter." New matter is limited to material facts that are not merely denials of the averments of the preceding pleadings. 52 Pa. Code § 5.62(b). Respondent attempts to skirt these requirements by incorporating all paragraphs of its Answer as New Matter. I&E rejects this attempt and denies these allegations.

40. Admitted in part and denied in part. It is admitted that Unique filed an objection to its assessment invoice for FY 2010/11 with the Commission.<sup>1</sup> It is denied that such objection was filed on September 20, 2010, as the objection was filed on September 22, 2010.

41. Admitted.

42. Admitted.

43. Admitted.<sup>2</sup>

44. Admitted.

45. Admitted.

46. Admitted. By way of further answer, the Commission ordered Respondent to remit its *total* outstanding assessment balance in the amount of \$19,136 for FY 2010/11 and FY 2011/12 within ten (10) days after receipt of the December 5, 2013 Order. The Commission specifically stated in its Order that, “The Code requires that Unique pay the outstanding assessments within ten days after receipt of this Order, but the Commission has discretion to impose additional penalties in the event of non-payment.” However, thus far, Respondent has still not paid its FY 2010/11 and FY 2011/12 Assessments in full.

47. Admitted in part and denied in part. It is admitted that on or about December 27, 2013, Unique issued to the Commission a check in the amount of \$2,000,

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<sup>1</sup> In the Complaint, I&E averred that Unique did not object to its FY 2010/11 Assessment. However, Unique did in fact object to its assessment for FY 2010/11. Unique’s objection was denied and it was ordered to pay the total outstanding amount within ten (10) days, which it failed to do. I&E will amend its Complaint accordingly.

<sup>2</sup> In the Complaint, I&E averred that Unique did not object to its FY 2011/12 Assessment. However, Unique did in fact object to its assessment for FY 2011/12. Unique’s objection was denied and it was ordered to pay the total outstanding amount within ten (10) days, which it failed to do. I&E will amend its Complaint accordingly.

at check number 43283, and made payable to the Commonwealth of Pennsylvania. It is denied that this payment represented the “first payment” of the \$19,136 due for FY 2010/11 and FY 2011/12 as Respondent unilaterally devised its own installment plan without the Commission’s approval and disregarded the Commission’s directive that Respondent pay its total outstanding assessment balance of \$19,136 for FY 2010/11 and FY 2011/12 within 10 days after receipt of the Commission’s December 5, 2013 Order. Consequently, Respondent violated the Commission’s Order by not only failing to pay the full amount, but also by failing to pay the full amount within the time prescribed by the Commission. Additionally, the \$2,000 payment was applied to Respondent’s previous outstanding assessment for Fiscal Year July 1, 2009 to June 30, 2010 (FY 2009/10) in the amount of \$12,444.<sup>3</sup> Therefore, such payment reduced Respondent’s outstanding assessment for FY 2009/10 to \$10,444.

48. Admitted in part and denied in part. It is admitted that on or about June 1, 2014, Unique issued to the Commission a check in the amount of \$4,000, at check number 43964, and made payable to the Commonwealth of Pennsylvania. It is denied that this payment represented the “second and third payments” of the \$19,136 due for FY 2010/11 and FY 2011/12 as Respondent unilaterally devised its own installment plan without the Commission’s approval and disregarded the Commission’s directive that Respondent pay its total outstanding assessment balance of \$19,136 for FY 2010/11 and FY 2011/12 within 10 days after receipt of the Commission’s December 5, 2013 Order.

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<sup>3</sup> Consistent with the policy of the Assessment Section of the Commission’s Bureau of Administrative Services (BAS), assessment payments submitted to the Assessment Section of BAS are applied to the oldest, existing assessment balance. Therefore, this \$2,000 payment was applied to Unique’s oldest, existing assessment balance of \$12,444 for FY 2009/10.

Consequently, Respondent violated the Commission's Order by not only failing to pay the full amount, but also by failing to pay the full amount within the time prescribed by the Commission. Additionally, the \$4,000 payment was applied to Respondent's previous outstanding assessment for FY 2009/10. Therefore, such payment reduced Respondent's outstanding assessment for FY 2009/10 to \$6,444.

49. Admitted in part and denied in part. It is admitted that on or about June 19, 2014, Unique issued to the Commission a check in the amount of \$6,000 and made payable to the Commonwealth of Pennsylvania. It is denied that this payment was issued at check number 43964, as it was issued at check number 44053. It is denied that this payment represented the "fourth, fifth, and sixth payments" of the \$19,136 due for FY 2010/11 and FY 2011/12 as Respondent unilaterally devised its own installment plan without the Commission's approval and disregarded the Commission's directive that Respondent pay its total outstanding assessment balance of \$19,136 for FY 2010/11 and FY 2011/12 within 10 days after receipt of the Commission's December 5, 2013 Order. Consequently, Respondent violated the Commission's Order by not only failing to pay the full amount, but also by failing to pay the full amount within the time prescribed by the Commission. Additionally, the \$6,000 payment was applied to Respondent's previous outstanding assessment for FY 2009/10. Therefore, such payment reduced Respondent's outstanding assessment for FY 2009/10 to \$444.

50. Admitted in part and denied in part. It is admitted that on or about July 3, 2014, Unique issued to the Commission a check in the amount of \$4,000, at check number 44158, and made payable to the Commonwealth of Pennsylvania. It is denied

that this payment represented the “seventh and eighth payments” of the \$19,136 due for FY 2010/11 and FY 2011/12 as Respondent unilaterally devised its own installment plan without the Commission’s approval and disregarded the Commission’s directive that Respondent pay its total outstanding assessment balance of \$19,136 for FY 2010/11 and FY 2011/12 within 10 days after receipt of the Commission’s December 5, 2013 Order. Consequently, Respondent violated the Commission’s Order by not only failing to pay the full amount, but also by failing to pay the full amount within the time prescribed by the Commission. Additionally, the \$4,000 payment was applied, in part, to Respondent’s previous outstanding assessment for FY 2009/10 and to Respondent’s outstanding assessment for FY 2010/11. Such payment satisfied Respondent’s outstanding assessment for FY 2009/10 and reduced Respondent’s outstanding assessment for FY 2010/11 to \$6,668.

51. Admitted in part and denied in part. It is admitted that on or about July 29, 2014, Unique issued to the Commission a check in the amount of \$3,136, at check number 44266, and made payable to the Commonwealth of Pennsylvania. It is denied that this payment represented the “final payment” of the \$19,136 due for FY 2010/11 and FY 2011/12 as Respondent unilaterally devised its own installment plan without the Commission’s approval and disregarded the Commission’s directive that Respondent pay its total outstanding assessment balance of \$19,136 for FY 2010/11 and FY 2011/12 within 10 days after receipt of the Commission’s December 5, 2013 Order. Consequently, Respondent violated the Commission’s Order by not only failing to pay the full amount, but also by failing to pay the full amount within the time prescribed by

the Commission. It is further denied that this payment, in addition to the other payments listed above, fully paid the amounts due for FY 2010/11 and FY 2011/12. The \$3,136 payment was applied solely to Respondent's outstanding assessment for FY 2010/11 and reduced Respondent's outstanding assessment for FY 2010/11 to \$3,532.

52. Admitted.

53. Denied. It is denied that the payments made by Unique have satisfied the amount due as set forth in the Commission's December 5, 2013 Order. The Commission specifically ordered that Respondent pay its total outstanding assessment balance of \$19,136 for FY 2010/11 and FY 2011/12 within 10 days after receipt of the Commission's December 5, 2013 Order. However, to date, Respondent still owes a total of \$12,444 for FY 2010/11 and FY 2011/12.

54. Denied. It is denied that Unique has made additional "payments" to the Commission in satisfaction of its obligations to the Commission for the fiscal years at-issue in I&E's Complaint. Unique made one additional payment to the Pennsylvania Department of Revenue on or about October 10, 2014 in the amount of \$10,138. This payment was applied, in full, to Respondent's assessment for Fiscal Year July 1, 2014 to June 30, 2015 (FY 2014/15).<sup>4</sup> Such payment satisfied Respondent's FY 2014/15 Assessment. However, Unique has failed to pay the remainder of its FY 2010/11 Assessment in the amount of \$3,532, its FY 2011/12 Assessment in the amount of \$8,912, its FY 2012/13 Assessment in the amount of \$7,871, and its FY 2013/14

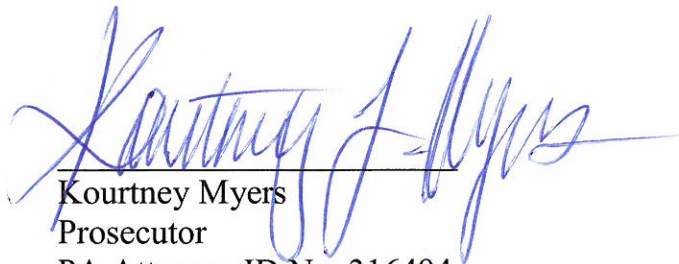
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<sup>4</sup> As Unique submitted this \$10,138 payment directly to the PA Department of Revenue, the Assessment Section of BAS did not have the ability to apply this payment to Respondent's oldest, existing assessment balance, and therefore, this payment was applied to Unique's FY 2014/15 assessment of \$10,138.

Assessment in the amount of \$8,230. Therefore, Unique's total outstanding assessment balance for the above mentioned fiscal years is \$28,545. As to the remainder of this Paragraph, I&E is without knowledge sufficient to form a belief as to the truth of the matters asserted and proof thereof is demanded. To the extent a response is required, these allegations are denied.

**WHEREFORE**, for all the foregoing reasons, the Bureau of Investigation and Enforcement of the Pennsylvania Public Utility Commission respectfully requests that the Office of Administrative Law Judge and the Commission sustain I&E's Complaint, dismiss Respondent's Answer and New Matter, and direct Respondent to immediately pay all past due assessments and I&E's requested civil penalty.

Respectfully submitted,



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Prosecutor  
PA Attorney ID No. 316494

Stephanie M. Wimer  
Prosecutor  
PA Attorney ID No. 207522

Wayne T. Scott  
First Deputy Chief Prosecutor  
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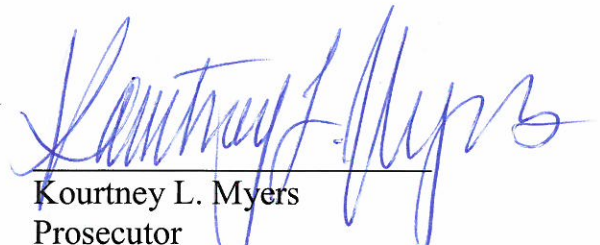
Dated: January 28, 2015

## 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 Electronic Mail:

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