



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

IN REPLY PLEASE
REFER TO OUR FILE

March 6, 2015

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. Concord Coach USA, Inc.
Docket No. C-2014-2435227

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 "Step M Wimer", is written over a horizontal line.

Stephanie M. Wimer
Prosecutor

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-2014-2435227
v.	:	
	:	
Concord Coach USA, Inc.	:	
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: March 6, 2015

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission,	:	
Bureau of Investigation and Enforcement	:	
Complainant	:	
	:	Docket No. C-2014-2435227
v.	:	
	:	
Concord Coach USA, Inc.	:	
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 Concord Coach USA, Inc. (“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 August 1, 2014 by filing a Complaint.
2. On August 4, 2014, the Complaint was served by certified mail to Respondent at 2752 Mount Carmel Avenue Glenside, PA 19038.
3. Included with the Complaint was a Notice advising Respondent that it must file an Answer within twenty (20) days.
4. 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.
5. On or around August 5, 2014, Michael S. Henry, Esq. entered his appearance in this proceeding.
6. No Answer was filed to the Complaint.

7. In the Complaint, I&E alleges that Respondent failed to fully pay its assessment for the 2012-2013 fiscal year, totaling \$383. I&E asserts that Respondent violated Section 510(c) of the Public Utility Code, 66 Pa.C.S. § 510(c), for failing to pay its assessment within thirty (30) days of receiving the assessment invoice. In addition, I&E avers that Respondent has previously failed to timely pay Commission assessments. *See Pa. Pub. Util. Comm'n, Bureau of Investigation and Enforcement v. Concord Coach USA*, Docket No. C-2012-2321426.
8. I&E further alleges that Respondent failed to file an assessment report with the Commission demonstrating its 2011 calendar year revenues. I&E asserts that this constitutes a violation of Section 501(b) of the Public Utility Code, 66 Pa.C.S. § 510(b).
9. I&E requests relief in the form of a civil penalty in the amount of \$1,096 and payment of Respondent's outstanding assessment balance, and submits that such relief is appropriate due to Respondent's unsatisfactory compliance history regarding Commission assessments.
10. Subsequent to the filing of I&E's Complaint, on August 13, 2014, Respondent submitted a check in the amount of \$383, which satisfies its outstanding assessment balance for the 2012-2013 fiscal year.
11. Respondent did not pay the civil penalty that was requested in the Complaint regarding its failure to timely pay its assessments for the 2012-2013 fiscal year and file an assessment report demonstrating revenues earned during the 2011 calendar year.
12. As mentioned above, Respondent did not answer the Complaint. 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).
13. 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).
14. Therefore, I&E respectfully requests that the Commission enter a Default Order against Respondent that:
 - a. Directs Respondent to pay the requested civil penalty of \$1,096 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-00115589 if the remaining civil penalty is not paid.

Respectfully submitted,



Stephanie Wimer
Prosecutor
PA Attorney ID # 207522

Pennsylvania Public Utility Commission
Bureau of Investigation and Enforcement
P.O. Box 3265
Harrisburg, PA 17105-3265
717.772.8839
stwimer@pa.gov

Date: March 6, 2015

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: March 6, 2015



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 and E-Mail:

Michael S. Henry, Esq.
Salaman, Grayson & Henry P.C.
100 South Broad Street
Suite 650
Philadelphia, PA 19110
mshenry@sghlawgroup.com



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
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Dated: March 6, 2015