



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

July 21, 2015

**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. David C. Millard t/a David Millard Trucking  
Docket No. C-2015-\_\_\_\_\_

Dear Secretary Chiavetta:

Enclosed for electronic filing please find the Complaint in the above referenced case on behalf of the Bureau of Investigation and Enforcement of the Pennsylvania Public Utility Commission. 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 "Stephanie M. Wimer".

Stephanie M. Wimer  
Prosecutor  
PA Attorney ID No. 207522

Prosecutor for the Bureau of  
Investigation and Enforcement

Enclosures

cc: As per Certificate of Service

## NOTICE

**A. You must file an Answer within 20 days of the date of service of this Complaint.**

The date of service is the mailing date as indicated at the top of the Secretarial Letter. *See* 52 Pa. Code §1.56(a). The Answer must raise all factual and legal arguments that you wish to claim in your defense, include the docket number of this Complaint, and be verified. You may file your Answer by mailing an original to: Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
P.O. Box 3265  
Harrisburg, PA 17105-3265

Or, you may eFile your Answer using the Commission's website at [www.puc.pa.gov](http://www.puc.pa.gov). The link to eFiling is located under the Filing & Resources tab on the homepage. If your Answer is 250 pages or less, you are not required to file a paper copy. If your Answer exceeds 250 pages, you must file a paper copy with the Secretary's Bureau.

Additionally, a copy should either be mailed to:

Michael L. Swindler, Deputy Chief Prosecutor  
Pennsylvania Public Utility Commission  
Bureau of Investigation and Enforcement  
P.O. Box 3265  
Harrisburg, PA 17105-3265

Or, emailed to Mr. Swindler at: [RA-PCCmplntResp@pa.gov](mailto:RA-PCCmplntResp@pa.gov)

B. If you fail to answer this Complaint within 20 days, the Bureau of Investigation and Enforcement will request that the Commission issue an Order imposing the penalty.

C. You may elect not to contest this Complaint by paying the past due assessment and civil penalty within 20 days. Your check or money order should be payable to the "Commonwealth of Pennsylvania" and mailed to: Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
P.O. Box 3265  
Harrisburg, PA 17105-3265

D. If you file an Answer which either admits or fails to deny the allegations of the Complaint, the Bureau of Investigation and Enforcement will request the Commission to issue an Order imposing the penalty set forth in this Complaint.

E. If you file an Answer which contests the Complaint, the matter will be assigned to an Administrative Law Judge for hearing and decision. The Judge is not bound by the penalty set forth in the Complaint, and may impose additional and/or alternative penalties as appropriate.

F. If you are a corporation, you must be represented by legal counsel. 52 Pa. Code § 1.21.

G. Alternative formats of this material are available for persons with disabilities by contacting the Commission's ADA Coordinator at 717-787-8714.

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

<b>Pennsylvania Public Utility Commission</b>	:	
<b>Bureau of Investigation and Enforcement</b>	:	
	:	
<b>v.</b>	:	<b>Docket No. C-2015-</b>
	:	
<b>David C. Millard t/a David Millard</b>	:	
<b>Trucking</b>	:	

**COMPLAINT**

NOW COMES the Bureau of Investigation and Enforcement (I&E) of the Pennsylvania Public Utility Commission (Commission), by its prosecuting attorneys, and files this Complaint against David C. Millard t/a David Miller Trucking (Respondent), pursuant to Section 701 of the Public Utility Code, 66 Pa.C.S. § 701. In support of its Complaint, I&E respectfully represents the following:

**Parties and Jurisdiction**

1. The Pennsylvania Public Utility Commission, with a mailing address of P.O. Box 3265, Harrisburg, PA 17105-3265, is a duly constituted agency of the Commonwealth of Pennsylvania empowered to regulate public utilities within the Commonwealth pursuant to the Public Utility Code, 66 Pa.C.S. §§ 101, *et seq.*

2. Complainant is the Commission's Bureau of Investigation and Enforcement and is the entity established by statute to prosecute complaints against public utilities pursuant to 66 Pa.C.S. § 308.2(a)(11).

3. Complainant is represented by:

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

Kourtney L. Myers  
Prosecutor  
Pennsylvania Public Utility Commission  
Bureau of Investigation and Enforcement  
P.O. Box 3265  
Harrisburg, PA 17105-3265  
717.705.4366  
komyers@pa.gov

Michael L. Swindler  
Deputy Chief Prosecutor  
Pennsylvania Public Utility Commission  
Bureau of Investigation and Enforcement  
P.O. Box 3265  
Harrisburg, PA 17105-3265

4. Respondent is David C. Millard t/a David Millard Trucking and maintains his principal place of business at 266 East Schiestle Road Mercer, PA 16137.

5. Respondent is a “public utility” as that term is defined at 66 Pa.C.S. § 102, as he is engaged in transporting property in the Commonwealth of Pennsylvania for compensation.

6. The Commission issued Respondent a certificate of public convenience on or about November 15, 1999, at A-00116303, for truck authority.

7. Section 501(a) of the Public Utility Code, 66 Pa.C.S. § 501(a), authorizes and obligates the Commission to execute and enforce the provisions of the Public Utility Code.

8. Section 701 of the Public Utility Code, 66 Pa.C.S. § 701, authorizes the Commission to, *inter alia*, hear and determine complaints against public utilities for a violation of any law or regulation that the Commission has jurisdiction to administer.

9. Section 3301 of the Public Utility Code, 66 Pa.C.S. § 3301, authorizes the Commission to impose civil penalties on any public utility, or any other person or corporation subject to the Commission's authority, for violation(s) of the Public Utility Code and/or Commission regulations.

10. Respondent, in transporting property, is subject to the power and authority of this Commission pursuant to Section 501(c) of the Public Utility Code, 66 Pa.C.S. § 501(c), which requires a public utility to comply with Commission regulations.

11. Pursuant to the provisions of the applicable Commonwealth statutes and regulations, the Commission has jurisdiction over the subject matter of this complaint and the actions of Respondent related thereto.

### **Factual Background**

12. On October 26, 2012, I&E filed a Complaint against Respondent at Docket No. C-2012-2331119, alleging that Respondent violated Section 510(b) and (c) of the Public Utility Code, 66 Pa.C.S. § 510(b)-(c), by failing to file assessment reports for the 2007, 2008, 2009 and 2010 calendar years and failing to timely pay his assessment for the 2008-2009, 2009-2010, 2010-2011 and 2011-2012 fiscal years.

13. On November 27, 2012, a Certificate of Satisfaction was filed pursuant to 52 Pa. Code § 5.24, noting that Respondent satisfied the outstanding assessment and civil penalty requested in I&E's Complaint.

#### **2013-2014 Fiscal Year**

14. On or about February 7, 2013, the Commission mailed to Respondent an assessment report for Respondent to report his gross intrastate operating revenues for the 2012 calendar year.

15. The assessment report was accompanied by a letter, which notified Respondent that the report was to be completed and returned to the Commission on or before March 31, 2013.

16. Respondent failed to file an assessment report stating his 2012 calendar year revenues.

17. On or about September 12, 2013, the Commission sent Respondent, through certified mail, an assessment invoice for the July 1, 2013 to June 30, 2014 Fiscal Year (2013-2014 Fiscal Year) that was based, in part, on Respondent's estimated revenues for the 2012 calendar year. Respondent's assessment was \$318.

18. On September 18, 2013, Respondent signed a certified mail card, which indicated that he received an assessment invoice for the 2013-2014 Fiscal Year.

19. Accompanying the assessment invoice was a notice that informed Respondent that he was obligated to pay the amount listed on the assessment invoice within thirty (30) days or file objections within fifteen (15) days.

20. The Commission received no objections from Respondent to this assessment.
21. On or about November 26, 2013, the Commission issued a credit to Respondent in the amount of \$41.00.
22. On or about December 12, 2013, the Commission received a check from Respondent in the amount of \$318 to satisfy his assessment for the 2013-2014 Fiscal Year.
23. On or about January 24, 2014, Respondent's check was rejected due to insufficient funds.
24. Respondent failed to pay the amount of his 2013-2014 Fiscal Year assessment invoice and owes \$277 for this Fiscal Year.

#### **2014-2015 Fiscal Year**

25. On or about February 7, 2014, the Commission mailed to Respondent an assessment report for Respondent to report his gross intrastate operating revenues for the 2013 calendar year.
26. The assessment report was accompanied by a letter, which notified Respondent that the report was to be completed and returned to the Commission on or before March 31, 2014.
27. Respondent failed to file an assessment report stating his 2013 calendar year revenues.
28. On or about September 11, 2014, the Commission sent Respondent, through certified mail, an assessment invoice for the July 1, 2014 to June 30, 2015 Fiscal

Year (2014-2015 Fiscal Year) that was based, in part, on Respondent's estimated revenues for the 2013 calendar year. Respondent's assessment was \$274.

29. On September 18, 2014, Respondent signed a certified mail card, which indicated that he received an assessment invoice for the 2014-2015 Fiscal Year.

30. Accompanying the assessment invoice was a notice that informed Respondent that he was obligated to pay the amount listed on the assessment invoice within thirty (30) days or file objections within fifteen (15) days.

31. The Commission received no objections from Respondent to this assessment.

32. Respondent failed to fully pay the amount of his 2014-2015 Fiscal Year assessment invoice.

33. The total outstanding assessment balance for Respondent is \$551.

### **Violations**

#### **COUNTS 1-2**

34. That Respondent failed to report his gross intrastate operating revenues for the 2012 and 2013 calendar years in that he did not file assessment reports for those years. If proven, this is a violation of Section 510(b) of the Public Utility Code, 66 Pa.C.S. § 510(b). I&E's proposed civil penalty for this violation is \$3,000. This civil penalty is based, in part, on Respondent's history of non-compliance with the Public Utility Code involving a failure to file assessment reports, as set forth above.

#### **COUNTS 3-4**

35. That Respondent failed to satisfy his 2013-2014 and 2014-2015 Fiscal Year

assessments in that he did not pay the amount due within thirty (30) days of receipt of the invoice. If proven, this is a violation of Section 510(c) of the Public Utility Code, 66 Pa. C.S. § 510(c). I&E's proposed civil penalty for this violation is 25% of the outstanding assessment balance or \$138. This civil penalty is based, in part, on Respondent's history of non-compliance with the Public Utility Code involving a failure to timely pay assessments, as set forth above.

**WHEREFORE**, for all the foregoing reasons, the Pennsylvania Public Utility Commission's Bureau of Investigation and Enforcement respectfully requests that:

- (a) Respondent be ordered to pay a total of \$3,689, which consists of his outstanding assessment balance of \$551 and a total civil penalty of \$3,138 for the above-described violations;
- (b) Respondent be directed to file assessment reports on a going-forward basis; and
- (c) If payment of the civil penalty and assessment is not made, the Bureau of Investigation and Enforcement requests that:
  - (1) the Commission issue an Order to cancel the Certificate of Public Convenience issued to Respondent;
  - (2) this matter be referred to the Pennsylvania Office of Attorney General for appropriate action; and
  - (3) the Commission certify automobile registrations to the Pennsylvania Department of Transportation for suspension or revocation.

Respectfully submitted,



Stephanie M. Wimer  
Prosecutor

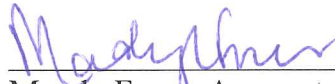
Pennsylvania Public Utility Commission  
Bureau of Investigation and Enforcement  
P.O. Box 3265  
Harrisburg, PA 17105-3265  
717.772.8839  
stwimer@pa.gov

Date: July 21, 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: July 21, 2015



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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 Complaint upon the parties, listed below, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a party).

Notification by Certified Mail:

David C. Millard  
David Miller Trucking  
266 East Schiestle Road  
Mercer, PA 16137



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Stephanie M. Wimer  
Prosecutor  
PA Attorney ID No. 207522

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

Dated: July 21, 2015