



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

August 20, 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. Kevin A. O'Donnell t/a Allway's Limo
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 "K. Myers", is positioned below the word "Sincerely,".

Kourtney L. Myers
Prosecutor
PA Attorney ID No. 316494

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. 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

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**

Pennsylvania Public Utility Commission	:	
Bureau of Investigation and Enforcement	:	
	:	
v.	:	Docket No. C-2015-
	:	
Kevin A. O'Donnell t/a Allway's Limo	:	

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 Kevin A. O'Donnell t/a Allway's Limo (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:

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

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

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 Kevin A. O'Donnell t/a Allway's Limo and maintains its principal place of business at 1001 Sweinhart Road, Boyertown, PA 19512, Attention: Kevin A. O'Donnell.

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

6. The Commission issued Respondent a certificate of public convenience on or about October 30, 1988, at A-00107271, for limousine 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 passengers as a common carrier for compensation, 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

Prior Case

12. On September 26, 2012, I&E filed a Complaint against Respondent at Docket No. C-2012-2326228, alleging that Respondent violated Section 510(c) of the

Public Utility Code, 66 Pa.C.S. § 510(c), by failing to pay the Commission's assessment for the July 1, 2011 to June 30, 2012 Fiscal Year.

13. On November 16, 2012, I&E filed a Certificate of Satisfaction pursuant to 52 Pa. Code § 5.24, noting that Respondent satisfied the outstanding assessment and civil penalty requested in I&E's Complaint.

2014-2015 Fiscal Year

14. On or about September 11, 2014, the Commission mailed to Respondent, through certified mail, an assessment invoice for the July 1, 2014 to June 30, 2015 Fiscal Year (2014-2015 Fiscal Year). Respondent's assessment was \$722.

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

16. The assessment invoice was mailed to Respondent at 1001 Sweinhart Road, Boyertown, PA 19512, which is the mailing address that Respondent provided to the Commission for assessment purposes.

17. On September 18, 2014, the 2014-2015 Fiscal Year assessment invoice was returned to the Commission by the United States Postal Service and was marked as "Return to Sender; Attempted-Not Known; Unable to Forward."

18. On or about September 26, 2014, the Commission mailed the 2014-2015 Fiscal Year assessment invoice, through certified mail, to Respondent at 93 Sandy Hill Road, Boyertown, PA 19512, which is the new mailing address that Respondent provided to the Commission for assessment purposes.

19. On October 13, 2014, the 2014-2015 Fiscal Year assessment invoice was returned to the Commission by the United States Postal Service and was marked as “Return to Sender; Unclaimed; Unable to Forward.”

20. On or about October 20, 2014, the Commission mailed the 2014-2015 Fiscal Year assessment invoice, through first class mail, to Respondent at 93 Sandy Hill Road, Boyertown, PA 19512, and there is no indication that this mailing was returned to the Commission as being undeliverable.

21. Respondent failed to pay the amount of its 2014-2015 Fiscal Year assessment invoice.

22. The total outstanding assessment balance for Respondent is \$722.

Violation

23. That Respondent failed to satisfy its 2014-2015 Fiscal Year assessment in that it 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 \$181. This civil penalty is based, in part, on Respondent’s history of noncompliance 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 \$903, which consists of its outstanding assessment balance of \$722 and a total civil penalty of \$181 for the above-described violation; and
- (b) If payment of the assessment and civil penalty 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,



Kourtney L. Myers
Prosecutor

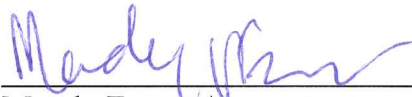
Pennsylvania Public Utility Commission
Bureau of Investigation and Enforcement
P.O. Box 3265
Harrisburg, PA 17105-3265
717.705.4366
komyers@pa.gov

Date: August 20, 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: August 20, 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

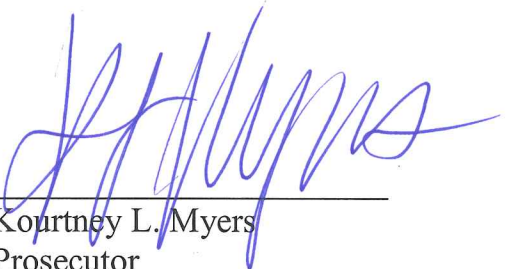
I hereby certify that I have this day served a true copy of the foregoing document upon the parties, listed below, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a party).

Notification by Certified Mail:

Kevin A. O'Donnell, President
t/a Allway's Limo
1001 Sweinhart Road
Boyertown, PA 19512

Notification by First Class Mail:

Kevin A. O'Donnell, President
t/a Allway's Limo
93 Sandy Hill Road
Boyertown, PA 19512



Kourtney L. Myers
Prosecutor
PA Attorney ID No. 316494

Pennsylvania Public Utility Commission
Bureau of Investigation and Enforcement
P.O. Box 3265
Harrisburg, PA 17105-3265
717.705.4366
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Dated: August 20, 2015