



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

IN REPLY PLEASE  
REFER TO OUR FILE

September 3, 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. Raymond P. Sutherland  
Docket No. C-2014-2445807

Dear Secretary Chiavetta:

Enclosed for electronic filing is the Bureau of Investigation and Enforcement's Petition for Reconsideration of the Commission's Opinion and Order entered on August 20, 2015 in the above-captioned matter.

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

Sincerely,

Kourtney L. Myers  
Prosecutor

Enclosure

cc: As per certificate of service  
Cheryl Walker Davis, OSA

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission,	:	
Bureau of Investigation and Enforcement,	:	
Complainant	:	
	:	Docket No. C-2014-2445807
v.	:	
	:	
Raymond P. Sutherland,	:	
Respondent	:	

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**PETITION FOR RECONSIDERATION OF THE BUREAU OF  
INVESTIGATION AND ENFORCEMENT**

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Pursuant to Section 703(g) of the Public Utility Code (Code), 66 Pa.C.S. § 703(g), and Section 5.572 of the Commission’s regulations, 52 Pa. Code § 5.572, the Bureau of Investigation and Enforcement (I&E) of the Pennsylvania Public Utility Commission (Commission) files this Petition for Reconsideration (Petition) of the Opinion and Order entered by the Commission on August 20, 2015 (August 20, 2015 Order) in the above-captioned proceeding. I&E respectfully submits that Raymond P. Sutherland (Respondent) should be directed to pay his assessment for the July 1, 2012 to June 30, 2013 Fiscal Year (2012-2013 Fiscal Year) for two primary reasons. First, Respondent operated during the 2011 calendar year, which was a time that formed the basis for the 2012-2013 Fiscal Year assessment. Secondly, Respondent’s assessment for the 2012-2013 Fiscal Year is binding because he failed to object to it. In addition, I&E respectfully submits that its requested civil penalty of \$1,000 for failing to file an

assessment report is supported by the factors and standards that the Commission uses to evaluate a civil penalty.

## **I. Procedural History**

1. On October 2, 2014, I&E filed a Complaint against Respondent alleging that Respondent violated Section 510(b) and (c) of the Code, 66 Pa.C.S. § 510(b)-(c), by failing to file an assessment report demonstrating his gross intrastate operating revenues for the 2011 calendar year and pay his assessment for the 2012-2013 Fiscal Year.

2. Regarding relief, I&E requested that Respondent pay his outstanding assessment for the 2012-2013 Fiscal Year in the amount of \$120 and a civil penalty totaling \$1,018.<sup>1</sup> I&E also requested that if payment of the assessment and civil penalty was not made, that the Commission cancel Respondent's Certificate of Public Convenience and refer the matter to the Pennsylvania Office of Attorney General for further action.

3. On October 8, 2014, the Complaint was returned to the Commission by the United States Postal Service as being undeliverable.

4. On October 17, 2014, the Commission's Secretary's Bureau re-served the Complaint on Respondent and on October 27, 2014, the Complaint was returned to the Commission by the United States Postal Service as being undeliverable.

5. Pursuant to Section 1.53(e) of the Commission's regulations, 52 Pa. Code

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<sup>1</sup> The civil penalty represents the following: \$1,000 regarding Respondent's failure to file a 2011 assessment report and \$18 or 15% of Respondent's outstanding assessment balance for the 2012-2013 Fiscal Year.

§ 1.53(e), the Complaint was published in the Pennsylvania Bulletin on January 24, 2015. See 45 Pa. Bull. 480 (January 24, 2015).

6. Respondent did not answer the Complaint. Moreover, Respondent did not file a 2011 assessment report and did not pay any amount of his outstanding assessment or civil penalty in response to I&E's Complaint.

7. On March 4, 2015, I&E filed a Motion for Default Judgment.

8. Respondent took no action in response to I&E's Motion for Default Judgment, including answering the Motion, submitting a 2011 assessment report, or paying his outstanding assessment balance and the requested civil penalty.

9. On August 20, 2015, the Commission entered an Opinion and Order granting, in part, and denying, in part, I&E's Motion for Default Judgment and sustaining, in part, and denying, in part, I&E's Complaint in the above-captioned matter.

10. The Commission denied I&E's request that Respondent pay his assessment for the 2012-2013 Fiscal Year in the amount of \$120, finding that Respondent did not receive any revenues that would form the basis of an assessment for that period of time. August 20, 2015 Order at 5. The Commission also declined to impose a civil penalty on Respondent for his failure to pay an assessment related to the 2012-2013 Fiscal Year. *Id.* at 5-6.

11. The Commission granted I&E's request to impose a civil penalty for Respondent's failure to file a 2011 assessment report. *Id.* at 5. However, the Commission reduced the civil penalty from \$1,000 to \$150. *Id.* at 9.

12. The Commission directed that Respondent remit payment of the \$150 civil

penalty within thirty (30) days of entry of the August 20, 2015 Order, the Bureau of Technical Utility Services cancel Respondent's Certificate of Public Convenience, and a copy of the August 20, 2015 Order be served upon the Pennsylvania Department of Transportation so that an administrative hold may be placed on Respondent's vehicle registrations. *Id.* at 10-11.

13. Prior to the time that I&E's Complaint in the above-captioned matter was initiated, Respondent was granted a voluntary suspension of his household goods carrier authority at Docket No. A-2011-2270622 that was set to terminate on October 26, 2012.

14. By letter dated December 1, 2011 (December 1, 2011 Letter), the Commission warned Respondent that if he

**[did] not notify the Commission of [his] intention to resume operations on or before October 26, 2012, and have [his] insurance agent submit acceptable evidence of insurance, or file an application to abandon or discontinue service, a complaint [would] be instituted against [Respondent] and [his] Certificate for household goods in use authority [would] be revoked.**

(emphasis in original).

15. Respondent never submitted evidence of insurance, informed the Commission of his intention to resume operations, or filed an application to abandon or discontinue his household goods carrier authority pursuant to the Commission's December 1, 2011 Letter. However, the Commission never filed a complaint against Respondent or revoked Respondent's household goods carrier authority.

16. Respondent was also advised by the Commission in the December 1, 2011 Letter that the **"grant of a voluntary suspension does not eliminate the need to pay any fines or fees due the Commission."** (emphasis in original).

17. On February 12, 2014, the Commission received a letter from Respondent wherein Respondent informed the Commission that he had allegedly been out of business since 2011.

18. By letter dated March 28, 2014, the Commission notified Respondent that he was required to complete the appropriate application and submit a \$10 filing fee before the Commission could grant Respondent a discontinuance of his household goods carrier authority. However, Respondent failed to follow the Commission's instructions regarding the filing of an application for discontinuance.

19. Therefore, at the time I&E's Complaint was filed, Respondent continued to hold active authority with the Commission.

## **II. Legal Standard**

20. Section 703(g) of the Code, 66 Pa.C.S. § 703(g), establishes a party's right to seek relief following the issuance of final decisions and authorizes the Commission to amend and rescind orders.

21. Similarly, Section 5.572 of the Commission's regulations sets forth the procedure for petitioning for reconsideration of a Commission order. 52 Pa. Code § 5.572.

22. Petitions for reconsideration are governed by *Duick v. Pennsylvania Gas and Water Co.*, 56 Pa. P.U.C. 553, 559 (Order entered December 17, 1982), which establishes a two-step analysis in determining whether to amend or rescind prior orders.

23. First, the Commission determines whether there is newly discovered evidence, errors of law, or changes in circumstances that warrant other Commission

review or whether the petition raises “new and novel” arguments or identifies considerations that appear to have been overlooked or not addressed in a previous order. *Duick*, 56 Pa. P.U.C. at 559.

24. The second step of *Duick* is to evaluate the new or novel argument or overlooked consideration in order to determine whether to exercise discretion to modify the previous Commission order. *Id.*

25. For the reasons set forth below, I&E respectfully submits that it successfully meets the standards set forth by *Duick* in that the August 20, 2015 Order contains an error of law and overlooks significant considerations relative to the Commission’s assessment process. Therefore, I&E respectfully requests that the Commission grant this Petition for Reconsideration.

### **III. Argument**

#### **A. The 2012-2013 Fiscal Year Assessment Is Based On Respondent’s Gross Intrastate Operating Revenues For The 2011 Calendar Year – A Period Of Time In Which Respondent Operated.**

26. In the August 20, 2015 Order, the Commission granted I&E’s Motion for Default Judgment relative to Respondent’s failure to report gross intrastate operating revenues earned during the 2011 calendar year, finding that Respondent “operated during some portion of 2011.” August 20, 2015 Order at 5. However, by the same token, the Commission denied I&E’s Motion for Default Judgment relative to Respondent’s failure to pay the 2012-2013 Fiscal Year assessment. *Id.*

27. Specifically, the Commission explained that it found “no reason to

conclude that the Respondent received any revenues during the 2012-2013 fiscal year that would serve as the basis for an assessment” and that it “[did] not find the Respondent responsible for any assessments applicable to the 2012-2013 fiscal year . . . .” *Id.*

28. I&E respectfully submits that the Commission’s reasoning is flawed and is not supported by the Code.

29. Section 510(b) of the Code, 66 Pa.C.S. § 510(b), sets forth the calculation that the Commission uses to levy assessments upon public utilities and this calculation considers a public utility’s gross intrastate operating revenues for the *preceding calendar year*. Specifically, Section 510(b) of the Code provides, in pertinent part, the following:

Each public utility within a group shall then be assessed for and shall pay to the commission such proportion of the amount allocated to its group as the gross intrastate operating revenues of the public utility **for the preceding calendar year** bear to the total gross intrastate operating revenues of its group for that year.

66 Pa.C.S. § 510(b)(4) (emphasis added).

30. Revenues earned during the 2011 calendar year were assessed by the Commission during the 2012-2013 Fiscal Year. In its Complaint, I&E explained that Respondent’s assessment for the 2012-2013 Fiscal Year was based, in part, on Respondent’s estimated gross intrastate operating revenues for the 2011 calendar year. I&E Complaint at ¶ 15.<sup>2</sup>

31. The Commission noted in the August 20, 2015 Order that Respondent operated for a portion of the 2011 calendar year, allegedly ceasing operations at some

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<sup>2</sup> Pursuant to Section 510(b) of the Code, 66 Pa.C.S. § 510(b), Respondent’s gross intrastate operating revenues for the 2011 calendar year were estimated due to Respondent’s failure to file a 2011 assessment report.

time on or before October 23, 2011, the date that Respondent's insurance coverages were terminated. August 20, 2015 Order at 5.

32. If Respondent did in fact cease operations on or about October 23, 2011, such cessation does not relieve Respondent of his obligation to pay an assessment to the Commission for the 2012-2013 Fiscal Year since Respondent *was* in operation under his Commission authority for almost ten (10) months during the 2011 calendar year.

33. Although Respondent's certificate was under suspension for about two (2) months of the 2011 calendar year,<sup>3</sup> this does not eliminate Respondent's responsibility to pay the Commission's assessment for the 2012-2013 Fiscal Year within thirty (30) days of receiving the assessment invoice, pursuant to Section 510(c) of the Code, 66 Pa.C.S. § 510(c).

34. Respondent was even advised by the Commission in the December 1, 2011 Letter at Docket No. A-2011-2270622 that the **“grant of a voluntary suspension does not eliminate the need to pay any fines or fees due the Commission.”** (emphasis in original).

35. Therefore, due to the fact that Respondent operated during the 2011 calendar year, I&E respectfully requests that the Commission find Respondent to be responsible for paying his outstanding assessment balance for the 2012-2013 Fiscal Year in the amount of \$120, as well as I&E's requested civil penalty of 15% of Respondent's outstanding assessment balance.

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<sup>3</sup> The Commission states in the August 20, 2015 Order that Respondent's voluntary suspension for the 2011 calendar year was for an *“express period of time.”* August 20, 2015 Order at 7.

**B. Respondent's Assessment For The 2012-2013 Fiscal Year Is Binding Because Respondent Did Not Object To The Assessment.**

36. Respondent did not object to the 2012-2013 Fiscal Year assessment and accordingly, Respondent's assessment is binding.

37. Section 510(c) of the Code provides, in pertinent part, the following:

The commission shall give notice by registered or certified mail to each public utility of the amount lawfully charged against it under the provision of this section, **which amount shall be paid by the public utility within 30 days of receipt of such notice . . . .**

66 Pa.C.S. § 510(c) (emphasis added).

38. The language of Section 510(c) mandates that public utilities pay the Commission's assessment within thirty (30) days of receipt of assessment invoices. *See also Richard Rickabaugh and Emanuel Rickabaugh t/a St. Topaz Limousine Service*, Docket No. A-00107047, 70 Pa. P.U.C. 275 (Order entered July 27, 1989) (holding that although the Commission is empowered to waive its own regulations, it may not waive a statutory requirement).

39. Section 510(c) of the Code also provides an opportunity for public utilities to object to an assessment and provides, in pertinent part, the following:

Within 15 days after receipt of such notice, the public utility against which such assessment has been made may file with the commission objections setting out in detail the grounds upon which the objector regards such assessment to be excessive, erroneous, unlawful or invalid. The commission, after notice to the objector, shall hold a hearing upon such objections. After such hearing, the commission shall record upon its minutes its findings on the objections and shall transmit to the objector, by registered or certified mail, notice of the amount, if any, charged against it in accordance with such findings, which amount or any installment thereof then due, shall be paid by the objector within ten

days after receipt of notice of the findings of the commission with respect to such objections.

66 Pa.C.S. § 510(c).

40. The Commonwealth Court has held that absent a timely objection by a public utility, the Court is divested of jurisdiction to consider any appeal and the merits of a protest to an assessment. *Pittsburgh Limousine, Inc. v. Pa. Pub. Util. Comm'n, Bureau of Transp. and Safety*, 762 A.2d 1150 (Pa. Cmwlth. 2000). See also *Petition for Refund of General Assessment; Charles W. Foltz, t/d/b/a C.W. Foltz Construction*, Docket No. A-00100945, 66 Pa. P.U.C. 496 (Order entered April 5, 1988) (holding that since no objections were submitted within the mandatory fifteen-day period, the Commission has no discretion or authority to consider the utility's request for a refund of its assessment).

41. Assessment invoices for the 2012-2013 Fiscal Year were issued on August 27, 2012. Respondent received the 2012-2013 Fiscal Year assessment invoice on September 1, 2012.

42. Therefore, any objection to the 2012-2013 Fiscal Year assessment on behalf of Respondent was due on or before September 17, 2012.

43. Respondent did not submit any objection to the assessment invoice for the 2012-2013 Fiscal Year.

44. Therefore, payment of Respondent's outstanding assessment for the 2012-2013 Fiscal Year was due within thirty (30) days of receipt of the invoice or on or before October 1, 2012, pursuant to the mandates of Section 510(c) of the Code, 66 Pa.C.S. § 510(c).

45. I&E respectfully submits that the Commission lacks the discretion or authority to eliminate, reduce, or in any way modify Respondent's 2012-2013 Fiscal Year assessment because Respondent did not timely object to the assessment.

46. In addition, strong public policy considerations support upholding Respondent's payment of the 2012-2013 Fiscal Year assessment. As the Commission is funded through assessments, it is the Commission's policy that all assessments are to be paid on time. *Pa. P.U.C. v. Lou Lane, Inc., t/a All Star Limousines*, Docket No. C-2011-2230353 (Order entered December 5, 2013). "[T]he Commission is not in the business of providing interest free loans to utilities and it is mandatory that assessments are timely paid by all utilities . . . ." *Id.*

47. Utilities are expected to pay their assessments in a timely manner because the operation of the Commission including oversight of safety considerations present in the regulation of each utility depends upon it. *Pa. P.U.C. v. Scott A Dechert t/a Distinctive Limousine Service*, Docket No. C-2012-2334904 (Order entered October 17, 2013).

48. Dismissing a utility's obligation to pay an assessment to the Commission sets a dangerous precedent because it sends a message to other regulated utilities that assessments are "optional."

49. Thus, enforcing the requirement to timely pay Commission assessments, especially assessments in which no objections were filed, is lawful and necessary pursuant to Section 510(c) of the Code, 66 Pa.C.S. § 510(c).

**C. The Commission's Policy Statement At 52 Pa. Code § 69.1201(c) Supports The Imposition Of A Civil Penalty In The Amount Of \$1,000 For Failing To File An Assessment Report.**

50. Section 3301(a) of the Code authorizes the Commission to impose a civil penalty of up to \$1,000 per violation of the Code, Commission regulation, or order.

66 Pa.C.S. § 3301(a). Additionally, under Section 3301(b) of the Code, the Commission may impose a civil penalty of up to \$1,000 **for each day** of a continuing offense.

66 Pa.C.S. § 3301(b).

51. The Commission promulgated a Policy Statement at 52 Pa. Code § 69.1201 as a guideline that sets forth ten factors that are to be considered when evaluating whether and to what extent a civil penalty for violating a Commission order, regulation or statute is warranted.

52. Section 510(b) of the Code mandates that public utilities file with the Commission a sworn statement demonstrating its gross intrastate operating revenues for the previous calendar year.

53. Section 510(b) of the Code provides, in pertinent part, the following:

On or before March 31 of each year, every public utility shall file with the commission a statement under oath showing its gross intrastate operating revenues for the preceding calendar year. If any public utility shall fail to file such statement on or before March 31, the commission shall estimate such revenues, which estimate shall be binding upon the public utility for the purposes of this section . . . .

66 Pa.C.S. § 510(b).

54. As noted above, I&E alleges that Respondent failed to file a 2011 assessment report.

55. I&E respectfully submits that the Commission overlooked the seriousness of Respondent's conduct in failing to file a 2011 assessment report. The serious nature of the conduct and the resulting consequences demonstrate that a \$1,000 civil penalty is warranted pursuant to 52 Pa. Code § 69.1201(c)(1) and (2).

56. While the Commission acknowledged in the August 20, 2015 Order, that "[t]he failure to file an assessment report is serious," the Commission characterized Respondent's conduct as "an administrative and/or technical error" and concluded that Respondent's conduct was "not serious." August 20, 2015 Order at 7.

57. The Commission thereafter reduced I&E's requested civil penalty regarding Respondent's failure to file its 2011 assessment report by 85 percent – from \$1,000 to \$150. *Id.*

58. Strong public policy considerations support enforcing the requirement that utilities file assessment reports.

59. The timely submission of assessment reports is crucial and the accurate reporting of gross intrastate operating revenues results in each utility receiving an assessment that is based on its fair share of the Commission's costs in administering the Code, pursuant to Section 510(f) of the Code. 66 Pa.C.S. § 510(f).

60. Further, while the Commission is authorized to estimate revenues in the absence of an assessment report, this does not negate each utility's duty to file an assessment report. In some situations, a utility's estimated revenues may be lower than its actual gross intrastate operating revenues and this dynamic acts as a disincentive for

utilities to submit assessment reports. Thus, enforcing the requirement to file assessment reports pursuant to 66 Pa.C.S. § 510(b) is necessary.

61. In addition, the ninth factor of the Commission's Policy Statement, 52 Pa. Code § 69.1201(c)(9), related to past Commission decisions in similar situations, was not adequately considered in the August 20, 2015 Order.

62. I&E respectfully submits that imposing a \$1,000 civil penalty for Respondent's failure to file a 2011 assessment report in this case is entirely consistent with past Commissions decisions in similar situations pursuant to 52 Pa. Code § 69.1201(c)(9).

63. Often, cases similar to the present matter are before the Commission on motions for default judgment for failure of the Respondents to file answers to I&E's complaints.

64. Traditionally in such cases, I&E has requested a civil penalty in the amount of \$1,000 for each calendar year that the Respondents failed to file an assessment report.

65. Historically, the Commission has, in past orders, issued a \$1,000 civil penalty for each calendar year that a utility failed to file an assessment report. *See, e.g., Pa. P.U.C. v. Glenn's Inc.*, Docket No. C-2014-2413366 (Order entered August 3, 2015); *Pa. P.U.C. v. Yellow 2000 of Philadelphia, Inc.*, Docket No. C-2014-2450045 (Order entered June 12, 2015); *Pa. P.U.C. v. Edelen and Boyer Co.*, Docket No. C-2014-2445664 (Order entered June 12, 2015); *Pa. P.U.C. v. Heather Noumeh t/a Royal Limousine Service*, Docket No. C-2015-2464920 (Order entered June 12, 2015); *Pa. P.U.C. v. XLNT Collision, LLC t/a D Laughlin Road Service*, Docket No. C-2014-

2450484 (Order entered June 11, 2015)(wherein Respondent was ordered to pay its 2012-2013 and 2013-2014 Fiscal Year assessments and a civil penalty of \$1,028 for failing to file a 2012 assessment report and pay the Commission's assessments even though Respondent had filed a cancellation request on April 29, 2015); *Pa. P.U.C. v. Posten Taxi, Inc.*, Docket No. C-2014-2449995 (Order entered June 11, 2015); *Pa. P.U.C. v. Summit Logistics Services, Inc.*, Docket No. C-2014-2447675 (Order entered June 11, 2015); *Pa. P.U.C. v. Pennywise Sedan Service LLC*, Docket No. C-2014-2432322 (Order entered June 11, 2015); *Pa. P.U.C. v. ETC Logistics, LLC*, Docket No. C-2014-2432968 (Order entered June 11, 2015); *Pa. P.U.C. v. Transline Trucking LTD*, Docket No. C-2014-2432326 (Order entered June 11, 2015); *Pa. P.U.C. v. Posten Transportation, Inc.*, Docket No. C-2014-2446926 (Order entered June 11, 2015); *Pa. P.U.C. v. James & John Limousine Service Inc. t/a James Limousine Service*, Docket No. C-2014-2444503 (Order entered June 11, 2015); *Pa. P.U.C. v. Mobility Professionals, Inc. t/a Vans-2-Go*, Docket No. C-2014-2445113 (Order entered June 11, 2015); *Pa. P.U.C. v. Deer Haven, LLP*, Docket No. C-2014-2450011 (Order entered June 11, 2015); *Pa. P.U.C. v. D&J Cappelli, Inc.*, Docket No. C-2014-2449853 (Order entered June 11, 2015); *Pa. P.U.C. v. Jesse Zumstein t/a J&M Transport*, Docket No. C-2014-2444511 (Order entered June 11, 2015); *Pa. P.U.C. v. MJR Messenger, Inc.*, Docket No. C-2014-2445411 (Order entered June 11, 2015); *Pa. P.U.C. v. A.J. Izzo Trucking, Inc.*, Docket No. C-2014-2446912 (Order entered June 11, 2015); *Pa. P.U.C. v. Ground Courier, Inc.*, Docket No. C-2014-2435228 (Order entered May 19, 2015); *Pa. P.U.C. v. Morgan Coach and Tours LLC*, Docket No. C-2014-2432970 (Order entered May 19, 2015); *Pa. P.U.C. v. Concord*

*Coach USA, Inc.*, Docket No. C-2014-2435227 (Order entered May 19, 2015); *Pa. P.U.C. v. Robinson Trucking, LLC*, Docket No. C-2014-2431921 (Order entered April 23, 2015); *Pa. P.U.C. v. Lancaster County Taxi Service Company, Inc.*, Docket No. C-2014-2432544 (Order entered April 23, 2015); *Pa. P.U.C. v. Golden Charter Service, Inc.*, Docket No. C-2014-2449886 (Order entered April 9, 2015); *Pa. P.U.C. v. Loftus Motor Freight, Inc.*, Docket No. C-2014-2448808 (Order entered April 9, 2015); *Pa. P.U.C. v. Accurate Transportation LLC*, Docket No. C-2014-2450034 (Order entered April 9, 2015); *Pa. P.U.C. v. Louis Kraft Co.*, Docket No. C-2014-2448800 (Order entered April 9, 2015).

66. Moreover, the same day that the Commission entered its order in the above-captioned matter, the Commission entered an Opinion and Order in *Pa. P.U.C. v. John C. Delauter t/a Delauter's A-1 Services*, Docket No. C-2014-2431917 (Order entered August 20, 2015), wherein the Commission sustained I&E's requested relief related to payment of a \$2,019 civil penalty<sup>4</sup> for the Respondent's failure to file assessment reports for the 2011 and 2012 calendar years and timely pay its outstanding assessment for the 2012-2013 Fiscal Year in the amount of \$129.

67. Therefore, I&E respectfully submits that an evaluation of the Commission's Policy Statement at 52 Pa. Code § 69.1201(c), supports the imposition of a \$1,000 civil penalty for Respondent's failure to file a 2011 assessment report.

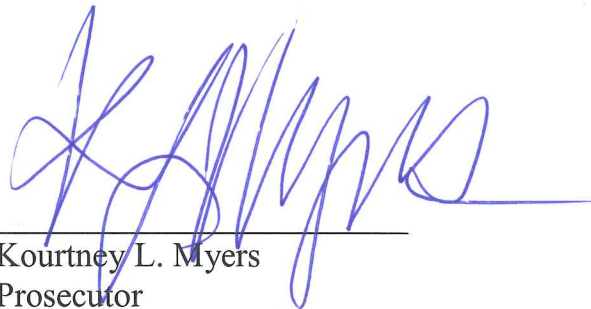
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<sup>4</sup> The civil penalty represents the following: \$2,000 regarding the Respondent's failure to file a 2011 and 2012 assessment report (\$1,000 for each calendar year that the Respondent failed to file an assessment report) and \$19 or 15% of the Respondent's outstanding assessment balance for the 2012-2013 Fiscal Year.

**IV. Conclusion**

**WHEREFORE**, for all the foregoing reasons, the Bureau of Investigation and Enforcement respectfully requests that the Commission grant its Petition for Reconsideration of the Commission's Opinion and Order in the above-captioned matter entered on August 20, 2015, find that Respondent is responsible for paying the Commission's assessment for the 2012-2013 Fiscal Year in the amount of \$120, and uphold I&E's requested civil penalty in the amount of \$1,018.

Respectfully submitted,



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Kourtney L. Myers  
Prosecutor  
PA Attorney ID No. 316494

Stephanie M. Wimer  
Prosecutor  
PA Attorney ID No. 207522

Michael L. Swindler  
Deputy Chief Prosecutor  
PA Attorney ID No. 43319

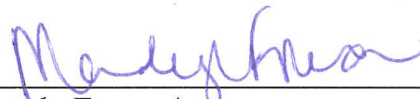
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Bureau of Investigation and Enforcement  
P.O. Box 3265  
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717.705.4366  
[komyers@pa.gov](mailto:komyers@pa.gov)

Date: September 3, 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: September 3, 2015



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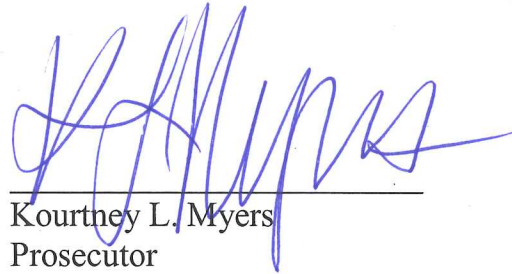
Mandy Freas, Accountant  
Assessment Section  
Bureau of Administrative Services  
PA. Public Utility Commission  
P.O. Box 3265  
Harrisburg, PA 17105-3265

## CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the foregoing 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:

Raymond P. Sutherland  
1844 Rockville Road  
Spring Grove, PA 17362



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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

Dated: September 3, 2015