

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**RECEIVED**  
**2015 SEP -2 PM12:26**  
**PA PUC**  
**SECRETARY'S BUREAU**

**Pennsylvania Public Utility Commission** :  
**Bureau of Investigation and Enforcement** :  
: **Docket No. C-2015-2493955**  
**v.** :  
: **Andrew M. Markward** :

**AMENDED 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 Amended Complaint against Andrew M. Markward (Respondent), pursuant to Section 701 of the Public Utility Code, 66 Pa.C.S. § 701. I&E's Complaint has been amended to reflect the appropriate amount of Respondent's outstanding assessment balance. In support of its Amended 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 Andrew M. Markward and maintains his principal place of business at 568 Valley Brook Drive Lansdale, PA 19446.

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 May 2, 2002, at A-00117790, for truck authority.

RECEIVED  
2015 SEP -2 PM 12:26  
PA PUC  
SECRETARY'S BUREAU

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 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). Respondent's assessment was \$165.

13. On October 17, 2014, Respondent signed a certified mail card, which indicated that he received an assessment invoice for the 2014-2015 Fiscal Year.

14. 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.

15. The Commission received no objections from Respondent to the assessment amount set forth in the 2014-2015 Fiscal Year assessment invoice.

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

17. By letter dated July 30, 2015, the Assessment Division of the Bureau of Administrative Services notified Respondent that a credit in the amount of \$29 was erroneously applied to his assessment invoice for the 2014-2015 Fiscal Year.

18. The letter advised Respondent to pay the \$29 past due amount related to the 2014-2015 Fiscal Year assessment within thirty (30) days. A copy of this letter is attached as Exhibit 1.

19. Respondent failed to pay the \$29 past due amount.

20. The total outstanding assessment balance for Respondent for the 2014-2015 Fiscal Year is \$194.

### **Violation**

21. That Respondent failed to satisfy his 2014-2015 Fiscal Year assessment in that he did not pay the amounts due within thirty (30) days of receipt of the invoice and the letter dated July 30, 2015. 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 \$50.

**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 \$244, which consists of his outstanding assessment balance of \$194 and a civil penalty of \$50 for the above-described violations; and
- (b) 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 & Enforcement  
P.O. Box 3265  
Harrisburg, PA 17105-3265  
717.772.8839  
stwimer@pa.gov

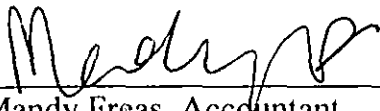
Date: September 2, 2015

RECEIVED  
2015 SEP -2 PM 12:26  
PA PUC  
SECRETARY'S BUREAU

**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 2, 2015

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

RECEIVED  
2015 SEP -2 PM 12:26  
PA PUC  
SECRETARY'S BUREAU

EXHIBIT 1

RECEIVED  
2015 SEP -2 PM 12: 26  
PA PUC  
SECRETARY'S BUREAU



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

July 30, 2015

IN REPLY PLEASE  
REFER TO OUR FILE  
704985

ANDREW M MARKWARD  
D.M. FREIGHT  
568 VALLEY BROOK DRIVE  
LANSDALE PA 19446

Dear Sir or Madam:

Recently it has come to the Commission's attention that your Company received a refund as well as a credit on your 2014-15 fiscal year invoice for the overpayment of your 2013-14 invoice.

Your utility received check number 00599797-dated 3/13/2014 for \$29.00 from the State Treasury. This was a refund from the 2013-14 invoice overpayment due to an incorrect assessment factor. The Commission then erroneously credited your account again for the \$29.00 and reduced your 2014-15 fiscal year invoice.

You are required to pay the above past due assessment of \$29.00 within thirty (30) days after receipt of this letter. If you fail to pay this assessment, the Commission will institute appropriate legal action against you.

Please make your check payable to "Commonwealth of Pennsylvania" and mail the check and a copy of this letter to the following address:

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

Should you have any questions regarding this matter, please contact the Bureau of Administrative Services, Assessment Division at 717-265-7548.

Sincerely,

*Yvonne R. Hess*

Yvonne R. Hess, Chief  
Finance and Assessment Division  
Bureau of Administration

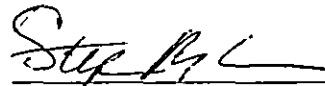
RECEIVED  
2015 SEP -2 PM 12:26  
PA PUC  
SECRETARY'S BUREAU

## CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the foregoing Amended 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 First Class Mail:

Andrew M. Markward  
568 Valley Brook Drive  
Lansdale, PA 19446



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: September 2, 2015

RECEIVED  
2015 SEP -2 PM 12: 26  
PA PUC  
SECRETARY'S BUREAU