



March 1, 2016

VIA E-FILE

D. Troy Sellars

Direct Phone 717-703-5890
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tsellars@cozen.com

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor North
P.O. Box 3265
Harrisburg, PA 17105-3265

Re: Petition of Best Rate Limousine, LLC To Rescind, on an Expedited Basis, the Secretarial Letter dated February 11, 2015 Cancelling Best Rate Limousine, LLC's Certificate of Public Convenience; Docket No. P-2016-_____

Dear Secretary Chiavetta:

Enclosed for filing with the Commission is Best Rate Limousine, LLC's Petition to Rescind the February 11, 2015 Secretarial Letter Cancelling Best Rate's Certificate of Public Convenience in the above-referenced matter. A copy of this document has been served in accordance with the attached Certificate of Service.

If you have any questions with regard to this filing, please do not hesitate to contact me. Thank you for your attention to this matter.

Sincerely,

COZEN O'CONNOR

By: D. Troy Sellars
Counsel for *Nasser Limousine/Best Rate Limousine, LLC*

DTS/kmg
Enclosure

cc: Per Certificate of Service

LEGAL\25988048\1

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Petition of Best Rate Limousine, LLC :
To Rescind, on an Expedited Basis, the :
Secretarial Letter dated February 11, 2015 : Docket No. P-2016- _____
Cancelling Best Rate Limousine, LLC's :
Certificate of Public Convenience :

NOTICE TO PLEAD

Pursuant to 52 Pa. Code § 5.572(d), you are hereby notified that you have ten (10) days from the service of the enclosed petition of Best Rate Limousine, LLC to file an answer to the petition. All pleadings, such as an answer, must be filed with the Secretary of the Pennsylvania Public Utility Commission, with a copy served to counsel for Pennsylvania-American Water Company, and where applicable the Administrative Law Judge presiding over the case.

File with:

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
P.O. Box 3265
Harrisburg, PA 17105-3265

With a copy to:

D. Troy Sellars, Esquire (PA ID #210302)
Cozen O'Connor
17 North Second St., Suite 1410
Harrisburg, PA 17101

Dated: March 1, 2016



D. Troy Sellars, Esquire

Petition of Best Rate Limousine, LLC :
To Rescind, on an Expedited Basis, the :
Secretarial Letter dated February 11, 2015 : Docket No. P-2016- _____
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CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of above-referenced petition, upon the parties, listed below, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a party), and 66 Pa. C.S. § 703(g)

FIRST CLASS MAIL:

Bureau of Investigation & Enforcement
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor West
P.O. Box 3265
Harrisburg, PA 17105-3265

Dated: March 1, 2016



D. Troy Sellars, Esquire

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Petition of Best Rate Limousine, LLC :
To Rescind, on an Expedited Basis, the :
Secretarial Letter dated February 11, 2015 : Docket No. P-2016- _____
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PETITION OF BEST RATE LIMOUSINE, LLC

Best Rate Limousine, LLC (“Best Rate”), by and through the undersigned counsel, respectfully files this petition with the Pennsylvania Public Utility Commission (“Commission”), pursuant to 66 Pa. C.S. § 703(g) and 52 Pa. Code § 5.572, for an order rescinding the Secretarial Letter issued February 11, 2015, cancelling the Certificate of Public Convenience issued to Best Rate at Docket No. A-00116860 and in support thereof avers as follows:

BACKGROUND:

1. By Order dated August 17, 2000, Best Rate was issued a Certificate of Public Convenience to provide limousine services. Docket No. A-00116860.
2. On June 26, 2014, the Commission’s Bureau of Investigation and Enforcement (“I&E”) filed a complaint against Best Rate for failure to maintain evidence of insurance with the Commission. Docket No. C-2014-2428514.
3. Best Rate failed to reply to the complaint.

4. By Secretarial Letter dated February 11, 2015, Best Rate was advised that the allegations in the complaint were deemed admitted, that Best Rate was assessed a \$500.00 fine under the complaint as well as an additional \$100.00 for failing to answer the complaint, and that its Certificate of Public Convenience was cancelled. (A copy of the Secretarial Letter is attached as **Appendix A.**)

LEGAL AUTHORITY FOR REQUEST:

5. 66 Pa. C.S. § 703(g) provides that :

[t]he commission may, at any time, after notice and after opportunity to be heard as provided in this chapter, rescind or amend any order made by it. Any order rescinding or amending a prior order shall, when served upon the person, corporation, or municipal corporation affected, and after notice thereof is given to the other parties to the proceedings, have the same effect as is herein provided for original orders.

6. Accordingly, this Honorable Commission has authority to rescind the above-referenced Secretarial Letter at any time. *See also* 52 Pa. Code § 5.572(d).

7. The Commission has the power to rescind a Secretarial Letter when there is a change in circumstances which justifies the rescission. *See Application of Arrive in Style Limousine, LLC, t/a Arrive in Style Limousine, for transfer of right authorized to Arrive in Style Limousine, Inc., t/a Arrive In Style Limousine, A-2014 -2423944, Secretarial Letter dated March 26, 2015, rescinding Secretarial Letter of December 15, 2014.*

8. While a petition to rescind is different from a petition for reconsideration,¹ if the Commission elected to apply the *Duick* reconsideration standard to the instant case,² Best Rate still meets the standard. In the above-referenced complaint, Best Rate was unrepresented and did not exercise its option to present any argument to this Honorable Commission regarding the allegations raised in the Complaint. Accordingly, Best Rate's arguments regarding why the above-referenced Secretarial Letter should be rescinded and Best Rate's Certificate of Public Convenience reinstated are new and worthy of consideration by this Honorable Commission.

ARGUMENT:

9. Best Rate respectfully suggests that this Honorable Commission should exercise its discretion under Section 703(g) and rescind the above-referenced Secretarial Letter and reinstate Best Rate's Certificate of Public Convenience for several reasons.

¹ For example, 52 Pa. Code § 5.572(c) requires that petitions for reconsideration be filed within 15 days of the Commission order at issue becomes final, while 52 Pa. Code § 5.572(d) notes that a petition to rescind or amend may be filed at any time. Further, in other contexts, the Commission has suggested that petitions for rescission or amendment merely need to set forth the specific reasons supporting the request. *Energy Efficiency and Conservation Program*, Docket No. M-2008-2069887 (Tentative Order entered April 1, 2011), p.5.

² The Commission's established standard for determining whether to grant a Petition for Reconsideration is set forth in *Duick v. Pennsylvania Gas and Water Co.*, 56 Pa. P.U.C. 553, 559, 1982 Pa. PUC LEXIS 4 (1982), and provides:

A Petition for Reconsideration, under the provisions of 66 Pa. C.S. § 703(g), may properly raise any matters designed to convince the Commission that it should exercise its discretion under this Code to rescind or amend a prior order in whole or in part.

In this regard we agree with the court in the Pennsylvania Railroad Company case, wherein it was stated that "[p]arties . . . , cannot be permitted a second motion to review and reconsider, to raise the same questions which were specifically decided against them' What we expect to see raised in petitions for reconsideration are new and novel arguments, not previously heard considerations which appear to have been overlooked by the Commission.

10. First, Best Rate has the ability to fully insure all vehicles which will be used to provide services under its Certificate of Public Convenience upon reinstatement.³ If the instant petition is granted, Best Rate will acquire insurance coverage for the vehicles and provide appropriate proof of coverage to this Honorable Commission before providing transportation services.

11. Second, Best Rate has paid the outstanding fines from the above-referenced complaint as well as its outstanding 2014-2015 assessment, and the outstanding fine for another complaint which was decided by default based upon Best Rate's failure to respond to the complaint (Docket No. C-2013-2384535).⁴

12. Third, Best Rate's sole member, John Nasser, is undertaking to resolve all outstanding issues with Best Rate and another company with common ownership, Nasser Limousine, LLC ("Nasser Limo"), and is eager to once again provide limousine transportation services to the public through Best Rate.⁵

13. Fourth, Best Rate was not assisted by counsel regarding the previous complaints against it and, therefore, made the mistake of not responding to the complaint. Best Rate has now acquired the services of counsel and is attempting to address its previous error in not responding to this Honorable Commission.

³ As Best Rate did not have the ability to operate, it leased out the vehicles in its fleet. Should this Honorable Commission grant the instant petition, Best Rate will reacquire the vehicles.

⁴ Another Complaint was filed against Best Rate in 2015, but that Complaint was withdrawn and the docket was closed. Docket No. C-2015-2457361.

⁵ At the same time the outstanding penalties were paid for Best Rate, Nasser Limo paid outstanding civil penalties for the complaints docketed to Docket Nos. C-2015-2485631 and C-2015-2501651. Moreover, Nasser Limo has reached a settlement in principle with the Commission's Bureau of Investigation and Enforcement for the only outstanding complaint regarding Nasser Limo, Docket No. C-2015-2488425.

14. Fifth, since its Certificate of Public Convenience was cancelled, Best Rate has continued to make loan payments on the vehicles previously in its fleet of limousines. These payments have left Best Rate in a precarious financial condition and it is imperative that it regain its Certificate of Public Convenience and begin generating revenue from the limousines on an expedited basis if the company is to survive.

15. Finally, going forward Best Rate is committed to conducting its operations in accord with the Rules and Regulations of Commission. As part of that commitment, several staffing changes were made to ensure that administrative responsibilities are properly executed in a timely manner. Best Rate is working to properly train all its staff to achieve full compliance with the Rules and Regulations of Commission.⁶

(remainder of page intentionally left blank)

⁶ While the ultimate responsibility for compliance with the Commission's rules and regulations rests with Best Rate's management, it is worth noting that Best Rate's principal, John Nasser, had been experiencing severe medical issues, including open heart surgery, since approximately 2013, and that he relied heavily on staff during 2014 and early 2015.

CONCLUSION:

WHEREFORE, for the reasons set forth above, Best Rate respectfully requests that this Honorable Commission exercise its power under 66 Pa. C.S. § 703(g) and issue an order which (i) rescinds the Secretarial Letter of February 11, 2015; (ii) reinstates the Certificate of Public Convenience issued to Best Rate Limousine, LLC at Docket No. A-00116860, subject to Best Rate providing proof of insurance through a compliance filing; and (iii) provides for such other relief as may be appropriate.

Respectfully submitted,



D. Troy Sellars (PA ID #210302)

Cozen O'Connor

17 North Second Street, Suite 1410

Harrisburg, PA 17101

Telephone: (717) 703-5892

Facsimile: (215) 989-4216

E-mail: tsellars@cozen.com

Dated: March 1, 2016

Appendix A



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

IN REPLY PLEASE
REFER TO OUR FILE

February 11, 2015

C-2014-2428514
A-00116860

**BEST RATE LIMOUSINE LLC
619 MINERAL AVE
SCRANTON PA 18509-3110**

**Re: Pennsylvania Public Utility Commission, Bureau of Investigation & Enforcement
v. Best Rate Limousine, LLC**

Respondent:

On **June 26, 2014**, the Bureau of Investigation and Enforcement instituted a Complaint against **Best Rate Limousine, LLC**, Respondent, for failure to maintain evidence of bodily injury and property damage liability insurance on file with this Commission, a violation of the Public Utility Code at 66 Pa C.S. §512, 52 Pa. Code §32.2(c), and 52 Pa. Code §32.11(a), §32.12(a) or §32.13(a).

In accordance with 52 Pa. Code §5.61, the Bureau of Investigation and Enforcement notified the Respondent that, unless the insurer files evidence of insurance with this Commission, and Respondent pays the proposed fine, an Answer to the Complaint must be filed within twenty (20) days of the date of service. The Notice further specified that, if Respondent failed to answer the Complaint within twenty (20) days, the Bureau of Investigation and Enforcement would request that the Commission cancel Respondent's Certificate of Public Convenience.

The Complaint was served by Certified Mail on Respondent, **Best Rate Limousine, LLC** on **July 3, 2014**. To date, more than twenty (20) days later, respondent has failed to file an Answer to the Complaint and has failed to pay the fine and have its insurer file evidence of insurance with this Commission.

Therefore, the allegations in the Complaint are deemed to be admitted. The Complaint is hereby sustained and the **Certificate of Public Convenience**, issued to Respondent at **A-00116860** is *hereby cancelled*.

Respondent is assessed a fine of \$500 for failure to maintain evidence of insurance on file with this Commission as required at 52 Pa. Code §32, as well as a fine in the amount of \$100 for failing to file an answer to the Complaint as required by 52 Pa. Code §5.61, for a total fine of \$600. Payment must be made by certified check or money order payable to the Pa. Public Utility Commission, P.O. Box 3265, Harrisburg, PA 17105-3265.

Furthermore, this Commission will request the Pennsylvania Department of Transportation to put an administrative hold on Respondent's vehicle registrations. Respondent will **NOT** be able to register any new vehicles or renew any existing vehicle registrations until all past due assessments are paid, all past due fines are paid, all insurance filings are up to date, and it holds an active Certificate of Public Convenience issued by this Commission.

This Secretarial Cancellation Letter will also be served on:

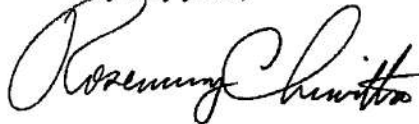
The Department of Revenue
Bureau of Audit Programs
Sales and Use Taxes
Tenth Floor, Strawberry Square
Harrisburg, PA 17128-1061

Respondent is hereby notified to cease and desist from further violations of the Public Utility Code, 66 Pa. C.S. §§1.1 et seq. and the regulations of the Commission, 52 Pa. Code §§1.1 et seq. In view of the **cancellation of respondent's Certificate of Public Convenience**, it is specifically prohibited from rendering service as a common carrier by motor vehicle in intrastate commerce in the Commonwealth of Pennsylvania.

Should Respondent wish to again begin transportation operations in the Commonwealth of Pennsylvania, Respondent must file a new application. Respondent must pay all outstanding assessments and fines before this Commission will act on an application. Payment must be made by certified check or money order payable to the Pa. Public Utility Commission, P.O. Box 3265, Harrisburg, PA 17105-3265.

If you disagree with this determination you may appeal to the Commission, pursuant to 52 Pa. Code §5.44 or, if you believe that you have received this letter in error, you must write a letter stating the reasons you believe this letter is in error and requesting that it be rescinded within thirty (30) days of the date of this letter. The letter shall be sent to Secretary, PA Public Utility Commission, P.O. Box 3265, Harrisburg, PA 17105-3265.

Very truly yours,

A handwritten signature in black ink, appearing to read "Rosemary Chiavetta". The signature is fluid and cursive, with the first letter of each name being significantly larger and more stylized.

Rosemary Chiavetta,
Secretary


Cc: Secretary's Bureau – File
PA Dept of Transportation
PA Department of Revenue

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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VERIFICATION

I, JOHN NASSER, hereby state that the facts set forth in the above-referenced petition are true and correct to the best of my knowledge, information and belief. I understand that the statements herein are made subject to the penalties of 18 Pa. C.S. § 4904 (relating to unsworn falsification to authorities),



John Nasser
Best Rate Limousine, LLC
Managing Member

Dated: February 29, 2016