



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

July 12, 2016

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. John Thomas Harnish
Docket No. C-2016-2543389

Dear Secretary Chiavetta:

Enclosed for electronic filing please find the Bureau of Investigation and Enforcement's Motion for Default Judgment in the above-referenced proceeding. Copies have been served on the parties of record in accordance with the Certificate of Service.

Should you have any questions, please do not hesitate to contact me.

Sincerely,

A handwritten signature in blue ink, appearing to read "Step 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

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission,
Bureau of Investigation and Enforcement,
Complainant

v.

John Thomas Harnish,
Respondent

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Docket No. C-2016-2543389

NOTICE TO PLEAD

The Bureau of Investigation and Enforcement (I&E) of the Pennsylvania Public Utility Commission (Commission) has filed a Motion for Default Judgment in the above-captioned matter, pursuant to the Commission's regulations at 52 Pa. Code § 5.103. You are hereby notified to file a written response within twenty (20) days of the service of the Motion, consistent with 52 Pa. Code § 5.61.

Your Answer must be verified, pursuant to 52 Pa. Code § 1.36, and the original sent to:
Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

Additionally, you must serve a copy on the undersigned prosecutor.



Stephanie M. Wimer
Prosecutor
PA Attorney ID No. 207522

Bureau of Investigation and Enforcement
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265
(717) 772-8839
stwimer@pa.gov

Dated: July 12, 2016

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission,
Bureau of Investigation and Enforcement,
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v.

John Thomas Harnish,
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Docket No. C-2016-2543389

MOTION FOR DEFAULT JUDGMENT

NOW COMES the Pennsylvania Public Utility Commission's (Commission) Bureau of Investigation and Enforcement (I&E), by its prosecuting attorneys, and files this Motion for Default Judgment against John Thomas Harnish (Respondent) pursuant to Section 5.103 of the Commission's regulations, 52 Pa. Code § 5.103. In support thereof, I&E respectfully represents as follows:

1. I&E commenced this action on May 4, 2016 by filing a Complaint.
2. On May 4, 2016, the Complaint was served by certified mail to Respondent at 266 West Main Street, Girardville, PA 17935.
3. Attached to the Complaint was a Notice advising Respondent that he must file an Answer within twenty (20) days of service of the Complaint.
4. The Notice also advised Respondent that if he failed to answer the Complaint, I&E would request that the Commission issue an Order imposing the penalty set forth in the Complaint.
5. On May 9, 2016, Respondent received the Complaint. A true and correct copy of proof of delivery of the Complaint is attached as Exhibit 1.
6. The twenty (20) days to file an Answer to the Complaint expired on June 13, 2016.

7. Respondent did not file an Answer to the Complaint.

8. Pursuant to Section 5.61(c) of the Commission's regulations, a Respondent who fails to file an Answer to a Complaint within the 20-day response period may be deemed in default, and the relevant facts stated in the Complaint may be deemed admitted. 52 Pa. Code § 5.61(c).

9. The Commonwealth Court has upheld the Commission's authority to sustain complaints that are not answered within twenty days. *See Fusaro v. Pa. PUC*, 382 A.2d 794, 797 (Pa. Cmwlth. 1978).

10. Respondent did not pay the outstanding assessment balance of \$245 for the July 1, 2015 to June 30, 2016 Fiscal Year (2015-2016 Fiscal Year) or the civil penalty of \$37 that was sought in the Complaint for Respondent's failure to timely pay the assessment.

11. I&E respectfully requests that the Commission enter a Default Order against Respondent that:

- a. Directs Respondent to pay his outstanding assessment of \$245 for the 2015-2016 Fiscal Year and the requested civil penalty of \$37 within thirty (30) days of the entry date of the Commission's Order;
- b. Directs the Bureau of Technical Utility Services to cancel Respondent's Certificate of Public Convenience at A-2012-2337798 if the outstanding assessment and civil penalty set forth in subparagraph (a), above, for a total of \$282 is not paid within thirty (30) days of the entry date of the Commission's Order;
- c. Notifies Respondent that a copy of this Order will be sent to the Pennsylvania Department of Transportation for the suspension or revocation of vehicle registrations that were used under Respondent's operating authority if the outstanding assessment and civil penalty is not paid within thirty (30) days of the entry date of the Commission's Order; and

- d. Directs the Bureau of Administrative Services, Assessment Section, to refer the matter to the Pennsylvania Office of Attorney General for collection of the outstanding assessment and civil penalty set forth in subparagraph (a), above, for a total of \$282, if that total is not paid within thirty (30) days of the entry date of the Commission's Order.

Respectfully submitted,



Stephanie Wimer
Prosecutor
PA Attorney ID No. 207522

Pennsylvania Public Utility Commission
Bureau of Investigation and Enforcement
P.O. Box 3265
Harrisburg, PA 17105-3265
stwimer@pa.gov
(717) 772-8839

Date: July 12, 2016

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PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission,
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v.

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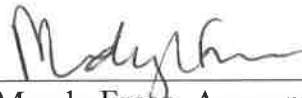
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VERIFICATION

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 12, 2016



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

EXHIBIT 1

English

Customer Service

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USPS Tracking®

Search by Enter a tracking number



Customer Service ›
Have questions? We're here to help.



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Tracking Number: 9171969009350106907101

Product & Tracking Information

Postal Product:
First-Class Mail®

Features:
Certified Mail™

Available Actions

Return Receipt Electronic

DATE & TIME	STATUS OF ITEM	LOCATION
May 9, 2016 , 11:41 am	Delivered	GIRARDVILLE, PA 17935

Your item was delivered at 11:41 am on May 9, 2016 in GIRARDVILLE, PA 17935.

May 5, 2016 , 5:36 am	Departed USPS Facility	LANCASTER, PA 17604
May 5, 2016 , 2:27 am	Arrived at USPS Origin Facility	LANCASTER, PA 17604
May 4, 2016 , 10:48 pm	Arrived at USPS Origin Facility	HARRISBURG, PA 17107
May 4, 2016 , 9:33 pm	Accepted at USPS Origin Facility	HARRISBURG, PA 17120
May 4, 2016	Pre-Shipment Info Sent to USPS	

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Tracking (or receipt) number

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v.

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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 First Class Mail:

John Thomas Harnish
266 West Main Street
Girardville, PA 17935



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

Dated: July 12, 2016