**BEFORE THE**

**PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Scott Luellen, :

:

Complainant :

: C-2016-2539599

v. :

:

Maroadi Transfer & Storage, Inc. :

:

Respondent :

**ORDER GRANTING RESPONDENT’S MOTION TO STRIKE**

**COMPLAINANT’S REPLY TO RESPONDENT’S**

**ANSWER TO AMENDED FORMAL COMPLAINT**

This order grants the Respondent’s motion to strike the Complainant’s reply to the answer filed by Respondent to the Complainant’s amended complaint, since the regulations of the Pennsylvania Public Utility Commission do not provide for the filing of a reply to an answer to a formal complaint.

On May 3, 2016, Scott Luellen (Mr. Luellen or Complainant) filed an amended formal complaint (complaint) against Maroadi Transfer & Storage, Inc. (Maroadi or Respondent) with the Pennsylvania Public Utility Commission (Commission). Mr. Luellen raised in his amended complaint, *inter alia*, certain safety and insurance-related allegations against the Respondent.

On May 24, 2016, Maroadi filed an answer, new matter, and preliminary objections in response to the complaint. In its answer, the Respondent generally denied the material allegations in the amended complaint. In its new matter, Maroadi alleges (1) that since the move occurred between Pittsburgh, Pennsylvania and Belmont, Massachusetts, it is an interstate shipment subject to the jurisdiction of the Federal Motor Carrier Safety Administration and not the Commission, (2) that the Complainant was not a party to the transportation contract between Ms. Drago and the Respondent, and (3) that the complaint involves alleged injuries and a claim for damages, and that a personal injury claim is not within the Commission’s jurisdiction

In its preliminary objections, Maroadi argues that (1) the Complainant was not the party to any transportation contract and, therefore, lacks standing to complain to the Commission on the basis of a contract between Ms. Drago and the moving company, (2) the complaint shows that the Respondent was only a booking agent and was not involved in the loading or transporting of the shipment, (3) the Complainant filed no liability claim with the Respondent, and (4) that the only allegation by the Complainant that could constitute a possible claim, if one had been filed, alleges a personal injury to the Complainant, for which recovery would be beyond the Commission’s jurisdiction.

On June 10, 2016, the Complainant filed Complaintant’s Answer to Respondent’s “New Matters” & Reply to Respondent’s Answer to Amended Formal Complaint. In its answer, Complainant responds to the averments raised by the Respondent in its new matter as well as Respondent’s answers to the forty numbered paragraphs in Complainant’s amended formal complaint.

On June 17, 2016, Respondent filed a Motion to Strike Complainant’s Reply to Respondent’s Answer to Amended Formal Complaint. In its motion, Respondent argues that the Complainant’s reply to Respondent’s answer to the amended formal complaint should be stricken, since the Commission’s regulations do not allow for an answer or reply to an answer to a formal complaint. In agree.

Section 5.1 of the Commission’s regulations, entitled Pleadings allowed, provide as follows:

1. The pleadings in an action before the Commission include the following:
2. Application and protest.
3. Formal complaint, answer, new matter and reply to new matter.
4. Order to show cause and answer.
5. Petition and answer.
6. Preliminary objections.
7. Motions.

52 Pa.Code §5.1.

As is evident from the regulation, a reply or answer to an answer to a formal complaint is not permitted. Accordingly, the Complainant’s reply to the Respondent’s answer to the amended formal complaint will be stricken form this proceeding.

I note that the formal complaint and the answers are merely intended to identify the issues in dispute in the proceeding and the general positions of the parties on those issues. The pleadings do not constitute, nor are they intended as, evidence or proof of the assertions made therein. The parties will be given a full opportunity to address and offer evidence in support of their positions on the various issues in the proceeding at the evidentiary hearing held in the matter.

ORDER

THEREFORE,

IT IS ORDERED:

1. That the Respondent’s Motion to Strike Complainant’s Reply to Respondent’s Answer to Amended Formal Complaint is granted.
2. That the Reply of the Complainant to the Respondent’s Answer to the Amended Formal Complaint is stricken.

Date: July 15, 2016 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Steven K. Haas

Administrative Law Judge

**C-2016-2539599 - SCOTT LUELLEN v. MAROADI TRANSFER & STORAGE INC**

SCOTT LUELLEN14 MARLBORO STREETBELMONT MA 02478412.915.7468-***ACCEPTS E-SERVICE-***

MAROADI TRANSFER & STORAGE INC1801 LINCOLN HIGHWAYROUTE 30NORTH VERSAILLES PA 15137412.243.4343

JOHN A PILLAR ESQUIRE150 GREEN COMMONS DRIVEPITTSBURGH PA 15243412.343.0970