



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

August 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. Rapid Transit, Inc.
Docket No. C-2016-2545045

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 "S M Wimer", is positioned above the typed name.

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.

Rapid Transit, Inc.,
Respondent

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Docket No. C-2016-2545045

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: August 12, 2016

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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

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Docket No. C-2016-2545045

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 Rapid Transit, Inc. (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 13, 2016 by filing a Complaint.
2. On May 13, 2016, the Complaint was served by certified mail to Respondent at 4648 H Street, Philadelphia, PA 19124.
3. This is the last known mailing address that Respondent provided to the Commission.
4. On June 7, 2016, the Complaint was returned to the Commission by the United States Post Office and was marked as "Return to Sender; Unclaimed; Unable to Forward."
5. On June 10, 2016, the Complaint was served by certified mail to Respondent at the following possible alternate address: 1952 Riverside Drive, Philadelphia, PA 19154.

6. On June 20, 2016, the Complaint mailed to 1952 Riverside Drive, Philadelphia, PA 19154 was returned to the Commission by the United States Post Office and was marked as “Return to Sender; Not Deliverable As Addressed; Unable to Forward.”

7. I&E published the Complaint in the *Pennsylvania Bulletin* on July 16, 2016 pursuant to the Commission’s regulation at 52 Pa. Code § 1.53(e) (relating to alternative service). *See* 46 Pa. Bull. 3903 (July 16, 2016).

8. Included with the Complaint was a Notice advising Respondent that it must file an Answer within twenty (20) days.

9. The Notice also advised Respondent that if it failed to answer the Complaint, I&E would request that the Commission issue an Order imposing the penalty set forth in the Complaint.

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

11. 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).

12. 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).

13. Respondent did not pay the outstanding assessment balance of \$59 for the July 1, 2015 to June 30, 2016 Fiscal Year (2015-2016 Fiscal Year) or the civil penalty of \$9 that was sought in the Complaint for Respondent’s failure to timely pay the assessment.

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

- a. Directs Respondent to pay its outstanding assessment of \$59 for the 2015-2016 Fiscal Year and the requested civil penalty of \$9 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-2013-2369268 if the outstanding assessment and civil penalty set forth in

subparagraph (a), above, for a total of \$68 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 \$68, 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: August 12, 2016

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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: August 12, 2016



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

