



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. Ronald Cab, Inc. t/a Community Cab
Docket No. C-2016-2543579

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,

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.

Ronald Cab, Inc. t/a Community Cab,
Respondent

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Docket No. C-2016-2543579

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 Ronald Cab, Inc. t/a Community Cab (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 5, 2016 by filing a Complaint.
2. On May 6, 2016, the Complaint was served by certified mail to Respondent at P.O. Box 506, Wallingford, PA 19086-506.
3. This is the last known main mailing address that Respondent provided to the Commission.
4. On May 31, 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 2, 2016, the Complaint was served to Respondent by First Class Mail at P.O. Box 506, Wallingford, PA 19086-506.
6. There is no record that the Complaint served by first class mail was returned to the Commission.

7. Depositing a properly addressed, prepaid letter in the mail raises a presumption that it reached its destination and mailing a letter in such a way is *prima facie* evidence that it was received by the person to whom it was addressed. See *Cameron Estate*, 130 A.2d 173 (Pa. 1957); *Meierdierck v. Miller*, 147 A.2d 406 (Pa. 1959); and *Samaras v. Hartwick*, 698 A.2d 71 (Pa. Super. 1997).

8. Even though the Complaint is presumed to have been delivered, out of an abundance of caution, 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).

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

10. 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.

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

12. 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).

13. 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).

14. Respondent did not pay the outstanding assessment balance of \$117 for the July 1, 2015 to June 30, 2016 Fiscal Year (2015-2016 Fiscal Year) or the civil penalty of \$18 that was sought in the Complaint for Respondent's failure to timely pay the assessment.

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

- a. Directs Respondent to pay its outstanding assessment of \$117 for the 2015-2016 Fiscal Year and the requested civil penalty of \$18 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-00116500 if

the outstanding assessment and civil penalty set forth in subparagraph (a), above, for a total of \$135 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 \$135, if that total is not paid within thirty (30) days of the entry date of the Commission's Order.

Respectfully submitted,



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
stwimer@pa.gov
(717) 772-8839

Date: August 12, 2016

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

v.

Ronald Cab, Inc. t/a Community Cab,
Respondent

Docket No. C-2016-2543579

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:

Ronald Cab, Inc.
t/a Community Cab
P.O. Box 506
Wallingford, PA 19086-0506

Ronald Cab, Inc.
t/a Community Cab
P.O. Box 269
Wallingford, PA 19086



Stephanie M. Wimer
Prosecutor
PA Attorney ID No. 207522

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Bureau of Investigation and Enforcement
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Dated: August 12, 2016