**BEFORE THE**

**PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Scott Luellen, :

:

Complainant :

: C-2016-2539599

v. :

:

Maroadi Transfer & Storage, Inc. :

:

Respondent :

**ORDER HOLDING PROCEEDING IN ABEYANCE**

**AND SCHEDULING PREHEARING CONFERENCE**

This Order holds in abeyance the above-captioned proceeding, including consideration of Complainant’s outstanding motions, and directs that a prehearing conference be scheduled.

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 a response to the Respondent’s answer and new matter. The Complainant disputes the factual averments set forth in the Respondent’s answer and new matter.

By order dated June 30, 2016, I denied, in part, Respondent’s preliminary objections and directed that a hearing be scheduled.

The Complainant has subsequently filed numerous motions requesting various forms of relief and requiring action by the undersigned Administrative law Judge. Below is a review of the various motions and their current status:

Complainant’s First Motion for Sanctions: served June 29, 2016

Answer served July 8, 2016

Motion denied by Order dated July 18, 2016.

Complainant’s First Motion to Compel Answers to Interrogatories: served June 29, 2016

Answer served July 8, 2016

Motion denied by Order dated July 15, 2016

Complainant’s Motion to Construe Reply to Respondent’s Answer as Motion to Strike . .

Motion served June 28, 2016

Answer served July 8, 2016

Commission Order not yet issued.

Complainant’s First Motion for Judgment on the Pleadings: served June 29, 2016

Answer served July 8, 2016

Commission Order not yet issued.

Complainant’s Second Motion to Compel Answers to Interrogatories: served July 13, 2016

Not yet answered.

Complainant’s Second Motion for Sanctions: served July 14, 2016

Not yet answered.

Complainant’s Revised Motion to Compel Answers to Interrogatories & Production of Documents: served July 25, 2016

Not yet answered.

By letter dated July 15, 2016, the Respondent’s former attorney, John H. Pillar, filed a Notice of Withdrawal of Appearance with the Commission, indicating that he was withdrawing as counsel to the Respondent. Under the Commission’s regulations, corporations in adversarial proceedings must be represented by an attorney licensed or otherwise authorized to practice law in Pennsylvania. I issued an Order dated August 2, 2016, in which I gave the Respondent thirty (30) days to obtain new legal counsel to represent it from this point forward in this proceeding, and allowed an additional 15 days for the Respondent, through its new legal counsel, to provide responses to the Complainant’s three motions identified above that have not yet been answered.

As previously noted, I denied the Respondent’s preliminary objections with regard to the Commission’s jurisdiction over this proceeding by Order dated June 30, 2016 (June 30 Order). Respondent alleges, however, that this proceeding involves an interstate move and argues correctly that the Commission lacks jurisdiction over transactions involving interstate commerce, pursuant the statue at 66 Pa. C.S. §104.

In the June 30 Order, I addressed the Complainant as follows:

The Complainant is cautioned that if, in fact, it is shown at the evidentiary hearing that the move originated in the Commonwealth of Pennsylvania and terminated in another state (including the state of Massachusetts), such determination will be fatal to Complainant’s complaint, due to lack of Commission jurisdiction over the transaction, since such a transaction constitutes commerce among the states, and the complaint will be dismissed in its entirety. (Pg. 6, June 30 Order).

Determining the Commission’s jurisdiction over this matter is integral to the disposition this complaint. It is well-settled that the Commission must act within and cannot exceed its jurisdiction. Behrend v. Bell Telephone Co., 363 A.2d 1152 (Pa. Super 1976). Jurisdiction may not be conferred by the parties where none exists. Roberts v. Martorano, 427 Pa. 581, 235 A.2d 602 (1967). In order for Complainant to prevail ultimately, there must be a statute, regulation or order which the Commission is authorized to enforce. The Complaint must set forth anything done or omitted to be done by the Respondent in violation of any law which the Commission has jurisdiction to administer. 66 Pa. C.S. § 701; 52 Pa. Code § 5.21(a).

In light of the numerous motions filed by the Complainant against the Respondent, requiring action by both the Respondent and the Commission, it is in the best interest of the parties and the Commission that the question of jurisdiction be resolved as expeditiously as possible. Doing so will not only allow the parties to more efficiently focus their efforts on pursuing this matter through the appropriate venues, but will also conserve the time and resources of Commission staff for matters properly before the Commission.

Therefore, pursuant to the authority granted to me as Presiding Officer under 52 Pa. Code § 5.483(a), I will hold further action in this proceeding, including consideration of the Complainant’s outstanding motions, in abeyance pending the scheduling and conduct of a prehearing conference for the purpose of clarifying whether the Commission has jurisdiction over this complaint. The Complainant may renew his motions after the prehearing conference if it is determined that the Commission has jurisdiction over the complaint.

ORDER

THEREFORE,

IT IS ORDERED:

1. That further action in this proceeding, including consideration of the Complainant’s outstanding motions, is held in abeyance.
2. That a prehearing conference be scheduled.

Date: August 16, 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