



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

August 29, 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. David C. Millard t/a David Millard Trucking
Docket No. C-2016-2548929

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,

Kourtney L. Myers
Prosecutor
PA Attorney ID No. 316494

Prosecutor for the Bureau of
Investigation and Enforcement

Enclosures

cc: As per Certificate of Service

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

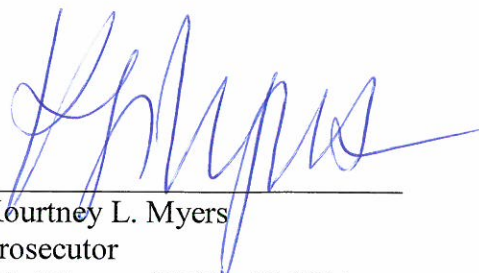
Pennsylvania Public Utility Commission,	:	
Bureau of Investigation and Enforcement,	:	
Complainant	:	
	:	
v.	:	Docket No. C-2016-2548929
	:	
David C. Millard t/a David Millard Trucking,	:	
Respondent	:	

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.



Kourtney L. Myers
Prosecutor
PA Attorney ID No. 316494

Bureau of Investigation and Enforcement
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265
(717) 705-4366
komyers@pa.gov

Dated: August 29, 2016

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission,	:	
Bureau of Investigation and Enforcement,	:	
Complainant	:	
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David C. Millard t/a David Millard Trucking,	:	
Respondent	:	

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 David C. Millard t/a David Millard Trucking (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 June 2, 2016 by filing a Complaint.
2. On June 3, 2016, the Complaint was served by certified mail to Respondent at 266 East Schiestle Road, Mercer, PA 16137.
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 July 5, 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.”

6. On July 11, 2016, the Complaint was re-served by certified mail to Respondent at 922 Clintonville Road, Mercer, PA 16137-6122.

7. Attached to the Complaint was a Notice advising Respondent that he must file an Answer within twenty (20) days of service of the Complaint.

8. 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.

9. On July 14, 2016, Respondent received the Complaint. A true and correct copy of proof of delivery of the Complaint is attached as Exhibit 1.

10. The twenty (20) days to file an Answer to the Complaint expired on August 1, 2016.

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 \$328 for the July 1, 2015 to June 30, 2016 Fiscal Year (2015-2016 Fiscal Year) or the civil penalty of \$1,582 that was sought in the Complaint for Respondent's failure to timely pay the assessment and file an assessment report demonstrating revenues earned during the 2014 calendar year.

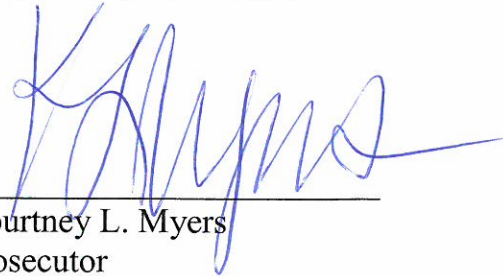
15. I&E respectfully requests that the Commission enter a Default Order against Respondent that:

- a. Directs Respondent to pay his outstanding assessment of \$328 for the 2015-2016 Fiscal Year and the requested civil penalty of \$1,582 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-00116303 if the outstanding assessment and civil penalty set forth in

subparagraph (a), above, for a total of \$1,910, if that total 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 are 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 \$1,910, if that total is not paid within thirty (30) days of the entry date of the Commission's Order.

Respectfully submitted,



Kourtney L. Myers
Prosecutor
PA Attorney ID No. 316494

Pennsylvania Public Utility Commission
Bureau of Investigation and Enforcement
P.O. Box 3265
Harrisburg, PA 17105-3265
(717) 705-4366
komyers@pa.gov

Date: August 29, 2016

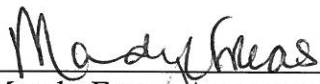
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	:	
David C. Millard t/a David Millard Trucking,	:	
Respondent	:	

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 29, 2016



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

English

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Tracking Number: 9171969009350109578117

Product & Tracking Information

Postal Product:
First-Class Mail®

Features:
Certified Mail™

Available Actions

[Return Receipt Electronic](#)

DATE & TIME	STATUS OF ITEM	LOCATION
July 14, 2016 , 10:41 am	Delivered	MERCER, PA 16137
Your item was delivered at 10:41 am on July 14, 2016 in MERCER, PA 16137.		
July 13, 2016 , 1:56 pm	Notice Left (No Authorized Recipient Available)	MERCER, PA 16137
July 13, 2016 , 8:10 am	Out for Delivery	MERCER, PA 16137
July 13, 2016 , 8:00 am	Sorting Complete	MERCER, PA 16137
July 13, 2016 , 7:48 am	Arrived at Unit	MERCER, PA 16137
July 12, 2016 , 8:43 pm	Departed USPS Facility	PITTSBURGH, PA 15290
July 12, 2016 , 11:47 am	Arrived at USPS Destination Facility	PITTSBURGH, PA 15290
July 12, 2016 , 4:59 am	Departed USPS Facility	HARRISBURG, PA 17107
July 11, 2016 , 6:42 pm	Arrived at USPS Origin Facility	HARRISBURG, PA 17107
July 11, 2016 , 5:27 pm	Accepted at USPS Origin Facility	HARRISBURG, PA 17120
July 11, 2016	Pre-Shipment Info Sent to USPS, USPS Awaiting Item	

Track Another Package

Tracking (or receipt) number

Track It

Manage Incoming Packages

Track all your packages from a dashboard.
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[Sign up for My USPS >](#)



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Bureau of Investigation and Enforcement, :
Complainant :

v. :

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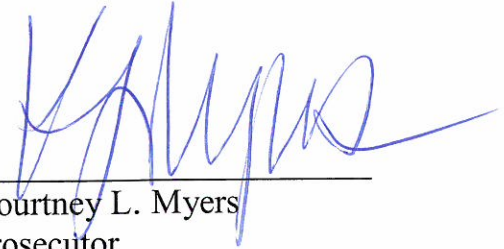
David C. Millard t/a David Millard Trucking, :
Respondent :

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:

David C. Millard
t/a David Millard Trucking
922 Clintonville Road
Mercer, PA 16137-6122



Kourtney L. Myers
Prosecutor
PA Attorney ID No. 316494

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