**BEFORE THE**

**PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Scott Luellen, :

:

Complainant :

: C-2016-2539599

v. :

:

Maroadi Transfer & Storage, Inc. :

:

Respondent :

**ORDER DIRECTING THE FILING OF**

**MOTIONS FOR SUMMARY JUDGMENT**

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 subsequently filed a number of motions requesting various forms of relief and requiring action by the undersigned Administrative law Judge. It became apparent during my review of certain documents filed in this proceeding following my denial of the Respondent’s POs that the trip at issue here may, in fact, have been an interstate, rather than an intrastate, move thereby calling into question the Commission’s jurisdiction over this complaint.

Determining the Commission’s jurisdiction over this matter is integral to the disposition of 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, I determined that it would be in the best interest of the parties and the Commission that the question of jurisdiction be resolved as expeditiously as possible. Therefore, I directed, by order dated August 16, 2016, that further action in this proceeding, including consideration of the Complainant’s outstanding motions, be held 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 if it is ultimately determined that the Commission has jurisdiction over the complaint.

By notice dated September 15, 2016, the Commission scheduled a telephonic prehearing conference in this matter for Wednesday, October 5, 2016, for the purpose of further addressing the jurisdictional issue. The prehearing conference was held as scheduled. The Complainant, Scott Luellen, appeared on behalf of himself. The Respondent was represented by Alex K. Yoder, Esquire.[[1]](#footnote-1) Mr. Luellen acknowledged during the prehearing conference, in response to my questions, that the trip at issue in this proceeding was, in fact, an interstate trip, having originated in the Pittsburgh, Pennsylvania area and terminated in Belmont, Massachusetts.

Following a brief discussion, it was agreed that the parties would prepare and file cross motions for summary judgment since, in light of the Complainant’s acknowledgment that the trip at issue was an interstate trip, resolution of the jurisdictional question appears to be a purely legal question, namely, whether the Commission has jurisdiction over interstate transportation. Accordingly, the parties were directed to file their motions for summary judgment on or before Friday, November 11, 2016, and answers to the other parties’ motions, if any, on or before Friday, December 2, 2016.

ORDER

THEREFORE,

IT IS ORDERED:

1. That the deadline for filing motions for summary judgment on the issue of whether the Commission has jurisdiction over interstate transportation is Friday, November 11, 2016.
2. That the deadline for filing answers, if any, to the other parties’ motions for summary judgment is Friday, December 2, 2016.

Date: October 5, 2016

Steven K. Haas

Administrative Law Judge

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

SCOTT LUELLEN14 MARLBORO STREETBELMONT MA 02478**412.915.7468*ACCEPTS E-SERVICE***

ALEX K. YODER, ESQUIRE

100 CORPORATE CENTER DRIVE

SUITE 201

CAMP HILL PA 17011

**717.651.3515**

***ACCEPTS E-SERVICE****REPRESENTING MAROADI TRANSFER & STORAGE, INC.*

1. On July 15, 2016, Respondent’s original legal counsel, John a. Pillar, Esquire, filed a Notice of Withdrawal of Counsel. On August 23, 2016, Alex K. Yoder, Esquire, filed a Notice of Entry of Appearance on behalf of the Respondent. [↑](#footnote-ref-1)