



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

October 28, 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. Atlantic Express of PA, Inc.
Docket No. C-2016-_____

Dear Secretary Chiavetta:

Enclosed for electronic filing please find the Complaint in the above-referenced case on behalf of the Bureau of Investigation and Enforcement of the Pennsylvania Public Utility Commission. Copies have been served on the parties of record in accordance with the Certificate of Service.

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

NOTICE

A. You must file an Answer within 20 days of the date of service of this Complaint.

The date of service is the mailing date as indicated at the top of the Secretarial Letter. *See* 52 Pa. Code §1.56(a). The Answer must raise all factual and legal arguments that you wish to claim in your defense, include the docket number of this Complaint, and be verified. You may file your Answer by mailing an original to:

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

Or, you may eFile your Answer using the Commission's website at www.puc.pa.gov. The link to eFiling is located under the Filing & Resources tab on the homepage. If your Answer is 250 pages or less, you are not required to file a paper copy. If your Answer exceeds 250 pages, you must file a paper copy with the Secretary's Bureau.

Additionally, a copy should either be mailed to:

Michael L. Swindler, Deputy Chief Prosecutor
Pennsylvania Public Utility Commission
Bureau of Investigation and Enforcement
P.O. Box 3265
Harrisburg, PA 17105-3265

Or, emailed to Mr. Swindler at: RA-PCCmplntResp@pa.gov

B. If you fail to answer this Complaint within 20 days, the Bureau of Investigation and Enforcement will request that the Commission issue an Order imposing the penalty.

C. You may elect not to contest this Complaint by paying the past due assessment and civil penalty within 20 days. Send only a certified check or money order made payable to the "Commonwealth of Pennsylvania" and mailed to:

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

D. If you file an Answer which either admits or fails to deny the allegations of the Complaint, the Bureau of Investigation and Enforcement will request the Commission to issue an Order imposing the penalty set forth in this Complaint.

E. If you file an Answer which contests the Complaint, the matter will be assigned to an Administrative Law Judge for hearing and decision. The Judge is not bound by the penalty set forth in the Complaint, and may impose additional and/or alternative penalties as appropriate.

F. If you are a corporation, you must be represented by legal counsel. 52 Pa. Code § 1.21.

G. Alternative formats of this material are available for persons with disabilities by contacting the Commission's ADA Coordinator at 717-787-8714.

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission	:	
Bureau of Investigation and Enforcement	:	
	:	
v.	:	Docket No. C-2016-
	:	
Atlantic Express of PA, Inc.	:	

COMPLAINT

NOW COMES the Bureau of Investigation and Enforcement (I&E) of the Pennsylvania Public Utility Commission (Commission), by its prosecuting attorneys, and files this Complaint against Atlantic Express of PA, Inc. (Respondent), pursuant to Section 701 of the Public Utility Code, 66 Pa.C.S. § 701. In support of its Complaint, I&E respectfully represents the following:

Parties and Jurisdiction

1. The Pennsylvania Public Utility Commission, with a mailing address of P.O. Box 3265, Harrisburg, PA 17105-3265, is a duly constituted agency of the Commonwealth of Pennsylvania empowered to regulate public utilities within the Commonwealth pursuant to the Public Utility Code, 66 Pa.C.S. §§ 101, *et seq.*

2. Complainant is the Commission's Bureau of Investigation and Enforcement and is the entity established by statute to prosecute complaints against public utilities pursuant to 66 Pa.C.S. § 308.2(a)(11).

3. Complainant is represented by:

Kourtney L. Myers
Prosecutor
Pennsylvania Public Utility Commission
Bureau of Investigation and Enforcement
P.O. Box 3265
Harrisburg, PA 17105-3265
717.705.4366
komyers@pa.gov

Stephanie M. Wimer
Prosecutor
Pennsylvania Public Utility Commission
Bureau of Investigation and Enforcement
P.O. Box 3265
Harrisburg, PA 17105-3265
717.772.8839
stwimer@pa.gov

Michael L. Swindler
Deputy Chief Prosecutor
Pennsylvania Public Utility Commission
Bureau of Investigation and Enforcement
P.O. Box 3265
Harrisburg, PA 17105-3265

4. Respondent is Atlantic Express of PA, Inc. and maintains its principal place of business at 3740 East Thompson Street, Philadelphia, PA 19137-1421.

5. Respondent is a “public utility” as that term is defined at 66 Pa.C.S. § 102, as it is engaged in transporting passengers in the Commonwealth of Pennsylvania for compensation.

6. The Commission issued Respondent a Certificate of Public Convenience on or about July 18, 1995, at A-00111639, for group and party 16 or greater authority.

7. Section 501(a) of the Public Utility Code, 66 Pa.C.S. § 501(a), authorizes and obligates the Commission to execute and enforce the provisions of the Public Utility Code.

8. Section 701 of the Public Utility Code, 66 Pa.C.S. § 701, authorizes the Commission to, *inter alia*, hear and determine complaints against public utilities for a violation of any law or regulation that the Commission has jurisdiction to administer.

9. Section 3301 of the Public Utility Code, 66 Pa.C.S. § 3301, authorizes the Commission to impose civil penalties on any public utility, or any other person or corporation subject to the Commission's authority, for violation(s) of the Public Utility Code and/or Commission regulations.

10. Respondent, in transporting passengers as a common carrier for compensation, is subject to the power and authority of this Commission pursuant to Section 501(c) of the Public Utility Code, 66 Pa.C.S. § 501(c), which requires a public utility to comply with Commission regulations.

11. Pursuant to the provisions of the applicable Commonwealth statutes and regulations, the Commission has jurisdiction over the subject matter of this complaint and the actions of Respondent related thereto.

Factual Background

2014-2015 FISCAL YEAR

12. On or about September 11, 2014, the Commission mailed to Respondent, by certified mail, an assessment invoice for the July 1, 2014 to June 30, 2015 Fiscal Year (2014-2015 Fiscal Year). Respondent's assessment was \$9,120.

13. Accompanying the assessment invoice was a notice that informed Respondent that it was obligated to pay the amount listed on the assessment invoice within thirty (30) days or file objections within fifteen (15) days.

14. The assessment invoice and notice of assessment were mailed to Respondent at 3740 East Thompson Street, Philadelphia, PA 19137-1421, which is the mailing address that Respondent provided to the Commission for assessment purposes.

15. On September 17, 2014, Respondent signed a certified mail card, which indicated that it received the assessment invoice and notice of assessment for the 2014-2015 Fiscal Year.

16. On September 29, 2014, Durham School Services, L.P. (Durham School Services) filed a letter (September 29, 2014 letter) with the Commission objecting to Respondent's 2014-2015 Fiscal Year Assessment Invoice noting that it acquired certain assets of Respondent's corporation through a bankruptcy auction in February 2014.

17. In its September 29, 2014 letter, Durham School Services provided that the last known mailing address for Respondent was at 7 North Street, Staten Island, NY 10302.

18. Respondent did not file with the Commission any copy of a petition for bankruptcy or apprise the Commission of a change in its current address.

19. On February 3, 2016, Durham School Services filed a letter with the Commission withdrawing its objection to Respondent's 2014-2015 Fiscal Year Assessment noting that its September 29, 2014 letter should not be considered an objection to Respondent's 2014-2015 Fiscal Year Assessment. Durham School Services

stated that the reason for the withdrawal of its objection was that it did not have the authority, intent, or legal right to object to Respondent's 2014-2015 Fiscal Year Assessment or to take any other action on behalf of Respondent as Durham School Services acquired certain assets of Respondent's corporation, but did not assume ownership or any liabilities for current or past operations of Respondent.

20. Respondent failed to pay its 2014-2015 Fiscal Year Assessment Invoice.

2015-2016 FISCAL YEAR

21. On or about February 6, 2015, the Commission mailed to Respondent an assessment report for Respondent to report its gross intrastate operating revenues for the 2014 calendar year in order to calculate Respondent's July 1, 2015 to June 30, 2016 Fiscal Year (2015-2016 Fiscal Year) Assessment.

22. The assessment report was accompanied by a letter, which notified Respondent that the report was to be completed and returned to the Commission on or before March 31, 2015.

23. Respondent failed to file an assessment report stating its 2014 calendar year revenues.

24. On or about September 10, 2015, the Commission mailed to Respondent, by certified mail, an assessment invoice for the 2015-2016 Fiscal Year that was based, in part, on Respondent's estimated revenues for the 2014 calendar year due to Respondent's failure to file an assessment report stating its 2014 calendar year revenues. Respondent's assessment was \$8,443.

25. Accompanying the assessment invoice was a notice that informed Respondent that it was obligated to pay the amount listed on the assessment invoice within thirty (30) days or file objections within fifteen (15) days.

26. The assessment invoice and notice of assessment were mailed to Respondent at 3740 East Thompson Street, Philadelphia, PA 19137-1421, which is the mailing address that Respondent provided to the Commission for assessment purposes.

27. On September 15, 2015, Respondent signed a certified mail card, which indicated that it received the assessment invoice and notice of assessment for the 2015-2016 Fiscal Year.

28. The Commission received no objections from Respondent to this assessment.

29. Respondent failed to pay its 2015-2016 Fiscal Year Assessment Invoice.

30. Being that Respondent's 2014-2015 and 2015-2016 Fiscal Year Assessments remained unpaid, on or about July 27, 2016, the Commission re-mailed the assessment invoices and notice of assessments for the 2014-2015 and 2015-2016 Fiscal Years to Respondent, via certified mail and first class mail, at 7 North Street, Staten Island, NY 10302, which is the last known mailing address of Respondent that Durham School Services provided to the Commission in its September 29, 2014 letter.

31. On August 24, 2016, the 2014-2015 and 2015-2016 Fiscal Year Assessment Invoices were returned to the Commission by the United States Postal Service as being undeliverable.

32. Respondent failed to pay its 2014-2015 and 2015-2016 Fiscal Year Assessment Invoices.

33. The total outstanding assessment balance for Respondent related to the 2014-2015 and 2015-2016 Fiscal Years is \$17,563.

Violations

COUNT 1

34. That Respondent failed to report its gross intrastate operating revenues for the 2014 calendar year in that it did not file an assessment report for that year. If proven, this is a violation of Section 510(b) of the Public Utility Code, 66 Pa.C.S. § 510(b). The Bureau of Investigation and Enforcement's proposed civil penalty for this violation is \$1,000.

COUNTS 2-3

35. That Respondent failed to satisfy its 2014-2015 and 2015-2016 Fiscal Year Assessments in that it did not pay the amounts due within thirty (30) days of receipt of the invoices. If proven, this is a violation of Section 510(c) of the Public Utility Code, 66 Pa.C.S. § 510(c). The Bureau of Investigation and Enforcement's proposed civil penalty for this violation is 15% of the outstanding assessment balance or \$2,634.

WHEREFORE, for all the foregoing reasons, the Pennsylvania Public Utility Commission's Bureau of Investigation and Enforcement respectfully requests that:

- (a) Respondent be ordered to pay a total of \$21,197, which consists of its outstanding assessment balance of \$17,563 related to the 2014-2015 and 2015-2016 Fiscal Years and a total civil penalty of \$3,634 for the above-described violations;
- (b) Respondent be directed to file assessment reports on a going-forward basis; and
- (c) If payment of the assessments and civil penalty is not made, the Bureau of Investigation and Enforcement requests that:
 - (1) the Commission issue an Order to cancel the Certificate of Public Convenience issued to Respondent;
 - (2) this matter be referred to the Pennsylvania Office of Attorney General for appropriate action; and
 - (3) the Commission certify automobile registrations to the Pennsylvania Department of Transportation for suspension or revocation.

Respectfully submitted,



Kourtney L. Myers
Prosecutor

Pennsylvania Public Utility Commission
Bureau of Investigation and Enforcement
P.O. Box 3265
Harrisburg, PA 17105-3265
717.705.4366
komyers@pa.gov

Date: October 28, 2016

Pennsylvania Public Utility Commission :
Bureau of Investigation and Enforcement :
 :
v. : Docket No. C-2016-
 :
Atlantic Express of PA, Inc. :

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: October 28, 2016



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

Pennsylvania Public Utility Commission :
Bureau of Investigation and Enforcement :
v. : Docket No. C-2016-
Atlantic Express of PA, Inc. :

CERTIFICATE OF SERVICE

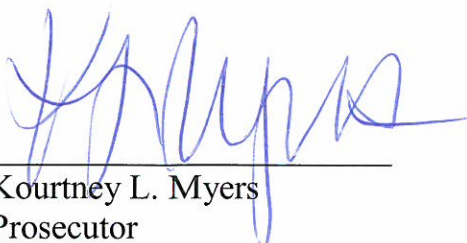
I hereby certify that I have this day served a true copy of the foregoing Complaint upon the parties, listed below, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a party).

Notification by Certified Mail:

Atlantic Express of PA, Inc.
3740 East Thompson Street
Philadelphia, PA 19137-1421

Notification by First Class Mail:

Atlantic Express of PA, Inc.
7 North Street
Staten Island, NY 10302



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

Dated: October 28, 2016