



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

IN REPLY PLEASE
REFER TO OUR FILE

February 24, 2017

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. Charles H. Edwards Jr.
Docket No. C-2016-2537014 **(I&E Main Brief)**

Dear Secretary Chiavetta:

Enclosed for electronic filing please find the Main Brief of the Bureau of Investigation and Enforcement 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

Enclosure

cc: Honorable Mary D. Long
As per Certificate of Service

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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

v. :

Charles H. Edwards Jr. :

Docket No. C-2016-2537014
:
:
:

**MAIN BRIEF OF THE
BUREAU OF INVESTIGATION AND ENFORCEMENT**

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Dated: February 24, 2017

TABLE OF CONTENTS

I. STATEMENT OF CASE..... 1

II. SUMMARY OF ARGUMENT 4

III. ARGUMENT 5

 a. Holding out or offering to provide passenger transportation service to the public without a Certificate constitutes a violation of Section 1101 of the Code. 5

 b. Respondent violated Section 29.314(d) of the Commission’s regulations by affixing an illuminated taxi dome light to the roof of his personal vehicle. 9

 c. The Commission’s Policy Statement at 52 Pa. Code § 69.1201(c) supports the imposition of a civil penalty in the amount of \$1,000 for holding out or offering to provide passenger transportation service to the public without a Certificate and for affixing an illuminated taxi dome light to the roof of a non-taxicab vehicle. 11

IV. CONCLUSION 17

APPENDIX A—Proposed Findings of Fact

APPENDIX B—Proposed Conclusions of Law

APPENDIX C—Proposed Ordering Paragraphs

I. STATEMENT OF THE CASE

On March 24, 2016, Pennsylvania Public Utility Commission (“PUC” or “Commission”) Enforcement Officer Ryan Balestra observed Charles H. Edwards Jr. (“Respondent”) operating his personal vehicle with an illuminated taxi dome light affixed to the roof of such vehicle. Tr. at 8:13-14. Respondent was operating on a rainy night around 10:40 PM on Carson Street in Pittsburgh, Pennsylvania. Tr. at 10:12-15 and 11:20-23. The area of Carson Street where Officer Balestra was stationed when he observed Respondent operating his vehicle is populated by bars and restaurants and at the time was filled with many patrons. Tr. at 11:16-19. As a part of his investigation, Officer Balestra took a picture of the driver’s side of Respondent’s vehicle, which shows an illuminated taxi dome light affixed to the roof of the vehicle. Tr. at 12:17-19; I&E Exhibit 2. A picture of the rear of Respondent’s vehicle was also taken by Officer Balestra that depicts the make and model of the vehicle, a Hyundai Santa Fe, bearing Pennsylvania license plate number JVJ3490. Tr. at 15:2; I&E Exhibit 3. Respondent’s license plate did not bear a taxi symbol signifying that the vehicle is a taxi. Tr. at 16:17-20. The Commission has not issued to Respondent a Certificate of Public Convenience (“Certificate”) to operate as a motor carrier of passengers between points within the Commonwealth of Pennsylvania for compensation. Tr. at 8:22-25; I&E Exhibit 1.

Accordingly, on April 26, 2016, I&E filed a Complaint against Charles H. Edwards Jr. alleging that Respondent violated Section 29.314(d) of the Commission’s

Regulations, 52 Pa. Code § 29.314(d), by affixing a taxi dome light to the roof of his vehicle when dome lights are only permitted on vehicles operated by call and demand carriers. The Complaint also alleges that Respondent violated Section 1101 of the Public Utility Code (“Code”), 66 Pa.C.S. § 1101, for holding out to provide passenger transportation service between points in Pennsylvania for compensation without first obtaining a Certificate from the Commission. I&E seeks a civil penalty in the amount of \$1,000 and requests that Respondent’s vehicle registration be suspended by the Pennsylvania Department of Transportation (“PennDOT”). On May 18, 2016, I&E filed an Amended Complaint alleging the same violations therein and modifying the year of Respondent’s vehicle from 2013 to 2003 in Paragraph 2 of the Amended Complaint.

On June 6, 2016, Respondent filed a letter in response to I&E’s Amended Complaint wherein he apologized to the Commission for violating 52 Pa. Code § 29.314(d) and admitted that he bought a taxi sign for his vehicle so that he could pay his bills. Respondent further stated in his letter-response to I&E’s Amended Complaint to “please call me and let me know what you decide.” Respondent did not contest any of the facts or violations alleged in I&E’s Amended Complaint.

Subsequent to this filing of the instant Complaint, on June 14, 2016, I&E filed yet another complaint against Respondent at Docket No. C-2016-2544672 alleging the same violations that are at issue in the instant proceeding. Respondent did not contest the allegations set forth in I&E’s complaint docketed at C-2016-2544672.¹

¹ This matter remains pending before the PUC’s Bureau of Technical Utility Services.

On December 8, 2016, I&E filed a Motion for Judgment on the Pleadings, pursuant to 52 Pa. Code § 5.102, on the grounds that there were no material facts in dispute and I&E was entitled to judgment in its favor as a matter of law. I&E argued that Respondent specifically admitted violating 52 Pa. Code § 29.314(d) and buying a taxi dome light to pay his bills, did not contest any of the facts of I&E's Amended Complaint, and did not raise any defense. I&E also asserted that Respondent's letter in response to I&E's Amended Complaint was procedurally improper as it was not set forth in numbered paragraphs corresponding with the Amended Complaint, failed to advise the Commission as to the nature of his defense, did not specifically admit or deny each material allegation in I&E's Amended Complaint, and failed to concisely state the facts and law upon which he relies for his defense. Respondent did not file an answer to I&E's Motion for Judgment on the Pleadings.

The evidentiary hearing in this matter took place on January 12, 2017. At the onset of the hearing, the presiding officer, Administrative Law Judge ("ALJ") Mary D. Long denied I&E's Motion for Judgment on the Pleadings finding that there were material facts in dispute and that Respondent's letter was sufficient in complying with the requirements of an answer as set forth in I&E's Notice to its Complaint. Tr. at 5:12-20. Respondent did not appear at the hearing or present any witness testimony. I&E presented the testimony of PUC Enforcement Officer Ryan Balestra and proffered four (4) exhibits, all of which were admitted into evidence with the caveat that I&E Exhibit 4 was only admitted for the limited purpose that a subsequent complaint was filed against Respondent.

I&E submits this Main Brief in accordance with the schedule established in the briefing order dated February 3, 2017. Proposed Findings of Fact, Proposed Conclusions of Law, and Proposed Ordering Paragraphs are attached as Appendices A, B, and C, respectively.

II. SUMMARY OF ARGUMENT

Holding out or offering to provide passenger transportation service without first obtaining a Certificate from the Commission is, in and of itself, a violation of Section 1101 of the Code, 66 Pa.C.S. § 1101, regardless of whether the service was actually rendered or compensation was received for such service. Respondent violated Section 1101 of the Code by affixing an illuminated taxi dome light to the roof of his personal vehicle, thereby holding himself out to render transportation service to the public while not having a Certificate from the Commission.

Additionally, Respondent violated Section 29.314(d) of the Commission's regulations, 52 Pa. Code § 29.314(d), by affixing an illuminated taxi dome light to the roof of his personal vehicle when Respondent was not permitted to hold himself out as a taxicab service or affix a taxi dome light to the roof of his vehicle and in doing so, misled the public that he was available for taxicab service.

I&E's requested civil penalty of \$1,000 and suspension of Respondent's vehicle registration by PennDOT is warranted based on Respondent's violation of the Code and the Commission's regulations and is appropriate upon consideration of the factors and standards used by the Commission to evaluate and impose civil penalties.

III. ARGUMENT

- a. Holding out or offering to provide passenger transportation service to the public without a Certificate constitutes a violation of Section 1101 of the Code.**

It is unlawful for any entity to hold itself out to provide a service to the public within the Commonwealth without first obtaining a certificate of public convenience from the Commission. *See* 66 Pa.C.S. §§ 102 and 1101. The Code defines a “public utility” to include an entity that transports passengers as a common carrier. 66 Pa.C.S. § 102. At Section 102 of the Code, “common carrier” is affirmatively defined as:

Any and all persons or corporations *holding out, offering,* or undertaking, directly or indirectly, service for compensation to the public for the transportation of passengers or property, or both, or any class of passengers or property, between points within this Commonwealth by, through, over, above, or under land, water, or air, and shall include forwarders, but shall not include contract carriers by motor vehicles, or brokers, or any bona fide cooperative association transporting property exclusively for the members of such association on a nonprofit basis.

66 Pa.C.S. § 102 (emphasis added). Whether a particular individual is a common carrier is a question of fact to be determined from the evidence. *Pa. Pub. Util. Comm'n v. Gornish*, 134 A.2d 565 (Pa. Super. Ct. 1939).

Section 1101 of the Code provides, in pertinent part, as follows:

Upon the application of any proposed public utility and the approval of such application by the commission evidenced by its certificate of public convenience first had and obtained, it shall be lawful for any such proposed public utility to *begin to offer, render, furnish, or supply service within this Commonwealth.*

66 Pa.C.S. § 1101 (emphasis added).

In *Pa. Pub. Util. Comm'n v. Lemick, Inc.*, 67 Pa. P.U.C. 491 (Order entered July 7, 1988), the Commission noted that the relevant provisions of both Sections 102 and 1101 of the Code are written in the disjunctive “or” and not the conjunctive “and” when listing the acts which characterize a common carrier (“holding out, offering, or undertaking”) and the acts for which a Certificate is required (“to begin to offer, render, furnish, or supply”). In this case, the Commission held that “pursuant to § 102 and § 1101 of the Code, an entity which holds itself out *or* renders service to the public requires a certificate of public convenience.” *Id.* (emphasis in original).

Further, while Section 1101 of the Code sets forth a disjunctive test in listing the acts for which a Certificate is required, the same section is void of any mention that compensation be received for such acts. In *Commonwealth v. Babb*, 70 A.2d 660 (Pa. Super. Ct. 1950), the Superior Court found that it was not necessary for the defendant, who operated a car equipped with a dome light bearing the word “taxi,” to charge a specific fee or even ask for compensation in order to conclude that he operated as a taxi without a Certificate. The court held that if there is clear and uncontradicted testimony of an indiscriminate holding out to the general public to provide transportation service, then whether there is no obligation to pay is irrelevant. *Id.* at 663.

More recently, the Commission has held that holding out to provide passenger transportation service without first obtaining a Certificate from the Commission is, in and of itself, a violation of Section 1101 of the Code, even when there is no evidence that the transportation service was actually rendered or that compensation was received for such service.

In *Pa. Pub. Util. Comm'n v. Applegate*, Docket No. C-2015-2451749 (Order entered May 23, 2016), the Respondents were observed driving their personal vehicle, which had printed advertisements listing the phone numbers and motor carrier services provided by their company, Independent Security Cab, on the sides of such vehicle. *Id.* The Respondents also distributed business cards with the same information listed. *Id.* The Respondents' advertisement on their personal vehicle and business cards did not advertise a rate or specific fee for the service and there was no evidence that the Respondents even rendered such service or received compensation for such service. *Id.* However, through the Respondents' advertisement on their vehicle and business cards, the Commission found that the Respondents violated Section 1101 of the Code by holding themselves out to transport passengers as a common carrier without having a Certificate and imposed a civil penalty of \$5,000 against the Respondents. *Id.*

In *Pa. Pub. Util. Comm'n v. Cintron*, Docket No. C-2015-2473286 (Order entered February 1, 2016), the Respondent posted an advertisement on Craigslist advertising to transport persons as a common carrier. *Id.* The advertisement consisted of a picture of the Respondent's vehicle with the company name, "La Familia Inc." and phone number imprinted on the front of the vehicle. *Id.* The advertisement also did not present a rate or a specific fee for the service and there was no evidence that the Respondent even rendered such service or received compensation for such service. *Id.* Through the Respondent's posting of the advertisement on Craigslist, the Commission concluded that the Respondent violated Section 1101 of the Code by holding himself out to transport

passengers as a common carrier without having a Certificate and imposed a civil penalty of \$1,000 against the Respondent. *Id.*

In *Pa. Pub. Util. Comm'n v. Brungard*, 97 Pa. P.U.C. 189 (Order entered June 3, 2002), the Respondents advertised to the public via the website, www.airtravelcenter.com and an advertisement in the Yellow Pages, to provide passenger transportation service between points in Pennsylvania. *Id.* Accordingly, the Commission found the Respondents to be in violation of Section 1101 of the Code and imposed a civil penalty at the rate of \$10 per day for 918 days for the continuing violation regarding the Respondents' holding themselves out via the website and Yellow Page advertisement as being able to provide such services while not having a Certificate. *Id.* The Commission concluded that "[t]he continued holding out of possessing authority to provide intrastate transportation services and providing these services, without possessing a certificate of public convenience, are unquestionably serious offenses within our direct jurisdiction to penalize pursuant to the Code." *Id.*

At the evidentiary hearing in the instant matter, I&E's witness, Officer Balestra, presented uncontradicted testimony which described how he observed Respondent operating his personal vehicle with an illuminated taxi dome light late at night on Carson Street in Pittsburgh, Pennsylvania. Tr. at 10:13-16. The area of Carson Street where Officer Balestra observed Respondent operating his vehicle is an area populated by bars and restaurants and at the time was busy with many patrons. Tr. at 11:16-19. Also at the hearing, I&E presented a certification from the Secretary of the Commission dated December 29, 2016, certifying that Charles H. Edwards Jr. has *not* been issued a

Certificate to operate as a motor carrier of passengers between points within the Commonwealth of Pennsylvania for compensation. I&E Exhibit 1. Additionally, in Respondent's letter-response to I&E's Amended Complaint, Respondent admitted that he bought a taxi dome light in order to pay his bills, meaning that Respondent anticipated to receive compensation for providing uncertificated passenger transportation service.

Respondent satisfied the definition of a common carrier under Section 102 of the Code because by affixing an illuminated dome light to the roof of his personal vehicle and admitting that he did so in order to pay his bills, Respondent held himself out to the public as being engaged in the business of transportation of persons for compensation. When Respondent operated his personal vehicle with an illuminated taxi dome light affixed to the roof of the vehicle, he held himself out to render transportation service to the public while not having a Commission granted Certificate in violation of Section 1101 of the Code.

b. Respondent violated Section 29.314(d) of the Commission's regulations by affixing an illuminated taxi dome light to the roof of his personal vehicle.

Section 29.314(d) of the Commission's regulations provides, in pertinent part, the following: "Unless otherwise permitted by the Commission, vehicles operated by call and demand carriers must have a dome light affixed to the roof of the vehicle." 52 Pa. Code § 29.314(d). The purpose of the dome light requirement is to aid the public in identifying taxicabs available for service. *In Re Final Rulemaking Amending 52 Pa. Code Chapters 29 & 31*, Docket No. L-00020157 (Order entered August 16, 2005).

As an uncertificated motor carrier, Respondent was not permitted to hold himself out as a taxicab service or affix an illuminated taxi dome light to the roof of his personal vehicle, which alerted the public that he was available for call and demand service. By affixing an illuminated dome light to the roof of his personal vehicle, Respondent misled the public by identifying himself as a call and demand carrier available for service. Respondent even admitted in his letter-response to I&E's Amended Complaint that he violated 52 Pa. Code § 29.314(d) and specifically admitted to displaying a dome light on his vehicle. Answer at 1. Therefore, Respondent violated 52 Pa. Code § 29.314(d) by affixing a dome light to his vehicle while he operated in uncertificated call and demand service.

Further, at the evidentiary hearing in the instant matter, Officer Balestra presented un rebutted testimony that illuminated dome lights are prohibited except on actual taxicabs pursuant to PennDOT's vehicle inspection standards.² Tr. at 18:9-13. Respondent is uncertificated and Respondent's license plate did not bear a taxi symbol signifying that his vehicle is a taxi. I&E Exhibit 1; Tr. at 16:17-20. Therefore, Respondent was operating his personal vehicle, a non-taxicab vehicle with an illuminated dome light, which is also unlawful under PennDOT's vehicle inspection standards at 67 Pa. Code § 175.66(h), as adopted by the Commission at 52 Pa. Code § 29.402(1).

²At the initial hearing in this matter, I&E moved to amend I&E's Amended Complaint to conform to Officer Balestra's testimony that Respondent violated Section 175.66(h) of PennDOT's vehicle inspection standards, 67 Pa. Code § 175.66(h), by using an illuminated sign on a non-taxicab vehicle and Section 29.402(1) of the Commission's regulations, 52 Pa. Code § 29.402(1), by failing to comply with applicable PennDOT equipment inspection standards as set forth in 67 Pa. Code Chapter 175 at all times when the vehicle is being operated. I&E's Motion was denied.

c. The Commission's Policy Statement at 52 Pa. Code § 69.1201(c) supports the imposition of a civil penalty in the amount of \$1,000 for holding out or offering to provide passenger transportation service to the public without a Certificate and for affixing an illuminated taxi dome light to the roof of a non-taxicab vehicle.

Sections 3301(a) and (b) of the Public Utility Code, 66 Pa.C.S. § 3301(a)-(b), authorize the Commission to impose a maximum civil penalty of \$1,000 per day for violations of its statutes, regulations, and orders. As a result of Respondent's unlawful activity, I&E seeks a civil penalty against Respondent in the amount of \$1,000 pursuant to 66 Pa.C.S. § 3301.

The Commission promulgated a Policy Statement at 52 Pa. Code § 69.1201 as a guideline that sets forth ten factors that are to be considered when evaluating whether and to what extent a civil penalty for violating a Commission order, regulation, or statute is warranted. While these factors are evaluated for both litigated and settled proceedings involving violations of the Code and Commission regulations, 52 Pa. Code § 69.1201(b) notes that these factors and standards are applied in a more strict fashion in a litigated proceeding, such as the instant matter, and without the flexibility afforded in a settled proceeding.

The first standard to be considered is whether the violation was of a serious nature or whether it was less egregious, such as an administrative or technical error. 52 Pa. Code § 69.1201(c)(1). As mentioned above, the Commission held in the *Brungard* case that holding out to provide transportation service without a Certificate is a serious offense. 97 Pa. P.U.C. 189 (Order entered June 3, 2002). Further, Officer Balestra presented un rebutted testimony that offering uncertificated passenger transportation

service is a public safety hazard. Tr. at 19:12-18. Officer Balestra testified that with uncertificated passenger transportation service, the Commission has no ability to verify that the carrier has proper insurance, to inspect vehicles to ensure compliance with state inspection requirements and to conduct background checks on drivers to confirm that they are of sound character. Tr. at 19:18-24. Therefore, this violation is serious in nature and warrants a higher penalty because the violation clearly is not an administrative or technical error.

The second factor is whether the resulting consequences of the conduct were of a serious nature, such as personal injury or property damage. 52 Pa. Code § 69.1201(c)(2). The consequence of Respondent's conduct reaches the point of seriousness because of Respondent's failure to seek approval from the Commission to lawfully operate as a motor carrier. Although no individual is known to have been harmed by Respondent's unlawful behavior, the possibility of serious consequences cannot be properly gauged because Respondent's uncertificated activity deprived the Commission of any ability to oversee his operations in terms of insurance, driver history, and vehicle safety. Tr. at 20:4-8. Thus, the consequences of Respondent's conduct are of a serious nature and warrant a higher penalty.

The third factor is whether the conduct at issue was deemed intentional or negligent. 52 Pa. Code § 69.1201(c)(3). In Respondent's letter in response to I&E's Amended Complaint, Respondent apologized to the Commission for violating 52 Pa. Code § 29.314(d). Answer at 1. Respondent also admitted buying a taxi dome light and stated that he used to be a driver for Yellow Cab. *Id.* Respondent did not deny that he

was in violation of the Code or the Commission's regulations and that is because Respondent knew that he was not permitted to offer himself out for motor carrier services to the public for compensation unless he first obtained a Certificate from the Commission. Knowing all these facts, Respondent's behavior can only be described as intentional.

The fourth standard is whether the utility made efforts to modify internal practices and procedures to address the conduct and prevent similar conduct, and the amount of time it took for the implementation of these measures. 52 Pa. Code § 69.1201(c)(4). Respondent ignored the notices advising him to participate in the initial hearing in this matter and failed to reply to I&E's Motion for Judgment on the Pleadings. In addition, subsequent to this filing of the instant Complaint, I&E filed yet another complaint against Respondent at Docket No. C-2016-2544672 alleging the same violations that are at issue in the instant proceeding. I&E Exhibit 4. Therefore, Respondent has not made any effort to modify his practices.

The fifth factor involves the number of customers affected and the duration of the violation. 52 Pa. Code § 69.1201(c)(5). Because Respondent does not report his activity to the Commission, it is unknown how long Respondent has been holding out to provide passenger transportation service, how many unauthorized trips that Respondent provided, and how many customers have paid Respondent in exchange for passenger transportation service.

The sixth factor is a consideration of Respondents' compliance history. 52 Pa. Code § 69.1201(c)(6). Again, because Respondent does not report his activity to the

Commission, it is unknown how long Respondent has been uncompliant in holding himself out to provide passenger transportation service without a Certificate.

Additionally, subsequent to this filing of the instant Complaint, I&E filed another complaint against Respondent at Docket No. C-2016-2544672 alleging the same violations that are at issue in the instant proceeding. I&E Exhibit 4.

The seventh factor is whether the regulated entity cooperated with the Commission's investigation. 52 Pa. Code § 69.1201(c)(7). With the exception of Respondent's letter-response to I&E's Amended Complaint, Respondent has been unresponsive throughout all stages of the instant proceeding. Respondent failed to reply to I&E's Motion for Judgment on the Pleadings and failed to appear at the evidentiary hearing held in this matter.

The eighth factor is the amount of the civil penalty or fine necessary to deter future violations, with consideration of the size of the utility. 52 Pa. Code § 69.1201(c)(8). The Commission has concluded that the concept of deterrence in an enforcement proceeding may apply to the industry as a whole. "Doing so is an effective means of assuring the industry understands the importance of compliance with our Regulations" *Pa. Pub. Util. Comm'n, Bureau of Investigation and Enforcement v. HIKO Energy, LLC*, Docket No. C-2014-2431410 (Order entered December 3, 2015) at 44. In the instant proceeding, I&E requested a civil penalty of \$1,000, which is a standard penalty that I&E requests when a motor carrier operates without approval from the Commission. Tr. at 24:7-15. A civil penalty of \$1,000 is necessary to deter future violations because, as Officer Balestra testified, non-certificated vehicles operating with

dome lights are a problem in Pittsburgh that the Motor Carrier Enforcement Division is trying to enforce. Tr. at 18:14-22. Officer Balestra testified that “. . . for every one that we catch, there’s ten out there that we don’t. It’s very prevalent” Tr. at 18:24-25. Moreover, subsequent to the filing of the instant Complaint, I&E filed another complaint against Respondent at Docket No. C-2016-2544672, which is still pending. I&E Exhibit 4. Therefore, a reduced civil penalty will not suffice in sending an adequate message to deter the unlawful behavior of not only the Respondent, but also the network of uncertificated passenger carriers operating in Pittsburgh.

The ninth factor calls for a consideration of past Commission decisions. 52 Pa. Code § 69.1201(c)(9). At the evidentiary hearing in this matter, Officer Balestra testified that the imposition of a \$1,000 civil penalty is the standard penalty that I&E requests when a motor carrier operates without approval from the Commission. Tr. at 24:7-15. Officer Balestra’s testimony is supported by past Commission decisions wherein a civil penalty of \$1,000 was imposed for each instance of providing or holding out to provide uncertificated passenger transportation service. *See Cintron*, Docket No. C-2015-2473286 (Order entered February 1, 2016). *See also Pa. Publ. Util. Comm’n, Bureau of Transp. and Safety v. Corey Transport, LLC*, Docket No. C-2010-2155103 (Initial Decision issued January 19, 2012) (Final Order entered March 22, 2012) (sustaining the enforcement bureau’s complaint requesting the imposition of a \$1,000 civil penalty for each instance of providing or holding itself out to provide passenger transportation service while uncertificated).

The tenth standard is other relevant factors. 52 Pa. Code § 69.1201(c)(9). I&E submits that no relevant factors exist that would serve to mitigate the proposed civil penalty sought against Respondent.

In addition to a civil penalty in the amount of \$1,000, I&E requested that PennDOT suspend Respondent's vehicle registrations pursuant to 75 Pa.C.S. § 1375. Section 1375 of the Vehicle Code, 75 Pa.C.S. § 1375, provides:

The [Pennsylvania Department of Transportation] shall suspend the registration of any vehicle upon the presentation to the department of a certificate of the [Commission] ... setting forth, after hearing and investigation, that the commission ... has found and determined that the vehicle has been operated as a common carrier or contract carrier by motor vehicle within this Commonwealth without the approval of the commission ... and either that no appeal was filed from such determination in the manner and within the time provided by law or that the determination was affirmed on appeal.

At the evidentiary hearing in this matter, Officer Balestra testified that I&E routinely requests that PennDOT suspend or revoke the vehicle registrations of persons who offer or provide uncertificated transportation service. Tr. at 24:16-21.

In summary, I&E's requested relief of a civil penalty in the amount of \$1,000 and suspension of Respondent's vehicle registrations is warranted based on Respondent's violation of the Code and Commission's regulations and is appropriate upon consideration of the factors and standards used by the Commission to evaluate and impose such civil penalties.

IV. CONCLUSION

For the foregoing reasons, the Bureau of Investigation and Enforcement respectfully requests that Your Honor sustain I&E's Amended Complaint, direct Respondent to pay the requested civil penalty of \$1,000, demand that Respondent cease and desist from further violations of the Public Utility Code and the Commission's regulations, and request the Pennsylvania Department of Transportation to suspend the registration of any vehicle registered to Charles H. Edwards Jr.

Respectfully submitted,



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Date: February 24, 2017

APPENDIX A

PROPOSED FINDINGS OF FACT

1. The Complainant in this matter is the Commission's Bureau of Investigation and Enforcement. Tr. at 4:5-7.
2. The Respondent is Charles H. Edwards Jr. Tr. at 4:7-8.
3. In Respondent's letter in response to I&E's Amended Complaint, Respondent made the following admissions:
 - a. That he violated 52 Pa. Code § 29.314(d); Answer at 1;
 - b. That he used to work as a driver for Yellow Cab; Answer at 1;
and
 - c. That he bought a taxi dome light in order to pay his bills; Answer at 1; Tr. at 32:15-18.
4. Respondent did not appear at the initial hearing in this proceeding. Tr. at 4:15-17.
5. The Commission has not issued a Certificate of Public Convenience to Respondent to operate as a motor carrier of passengers. Tr. at 8:22-25; I&E Exhibit 1.
6. Respondent owns and operates a tan 2003 Hyundai Santa Fe at license plate number JVJ3490. Tr. at 11:7-12; I&E Exhibits 2 & 3.
7. Respondent was observed by PUC Enforcement Officer Ryan Balestra on March 24, 2016 operating his personal vehicle on Carson Street in Pittsburgh, Pennsylvania. Tr. at 10:12-15.
8. On March 24, 2016, an illuminated dome light was affixed to the roof of Respondent's personal vehicle. Tr. at 8:13-14; I&E Exhibit 2.
9. Respondent holds himself out to the public as a taxi service. Tr. at 16:21-25 and 20:14-19; I&E Exhibit 2.
10. Respondent advertises his taxi service using an illuminated dome light, which he affixed to the roof of his vehicle. Tr. at 16:21-25 and 20:14-19; I&E Exhibit 2.
11. A subsequent complaint was filed against Respondent at Docket No. C-2016-2544672. Tr. at 22:7-11; I&E Exhibit 4.

APPENDIX B

PROPOSED CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the parties and subject matter of this proceeding. 66 Pa.C.S. § 701.
2. The Commission has the power and the duty to enforce the requirements of the Public Utility Code and Commission regulations. 66 Pa.C.S. § 501(c).
3. The Bureau of Investigation and Enforcement is authorized to enforce the provisions of the Public Utility Code and Commission regulations. 66 Pa.C.S. § 308.2.
4. The Bureau of Investigation and Enforcement bears the burden of proof in this proceeding. 66 Pa.C.S. § 332.
5. “Burden of proof” means the duty to establish one’s case by a preponderance of the evidence, which requires that the evidence be more convincing by even the smallest amount, than the evidence presented by the other side. *Samuel J. Lansberry, Inc. v. PA Pub. Util. Comm’n*, 578 A.2d 600, 602 (Pa. Commw. Ct. 1990), *alloc. denied*, 602 A.2d 863 (1992).
6. The Bureau of Investigation and Enforcement sustained its burden of proving that Respondent affixed a taxi dome light to the roof of his non-taxicab vehicle, which he used in call and demand service in violation of the Commission’s regulations. 52 Pa. Code § 29.314(d).
7. The Bureau of Investigation and Enforcement sustained its burden of proving that Charles H. Edwards Jr. offered passenger transportation for compensation without authority from the Commission in violation of the Public Utility Code. 66 Pa.C.S. § 1101.
8. The Commission is authorized to impose civil penalties for violations of the Public Utility Code. 66 Pa.C.S. § 3301.
9. The Commission is authorized to request that the Pennsylvania Department of Transportation suspend the registration of any vehicle that the Commission has found and determined to have been operated as a common carrier by motor vehicle within this Commonwealth without the approval of the Commission. 75 Pa.C.S. § 1375.

APPENDIX C

PROPOSED ORDERING PARAGRAPHS

1. That the Amended Complaint of the Bureau of Investigation and Enforcement against Charles H. Edwards Jr. at Docket No. C-2016-2537014 is sustained.
2. That Charles H. Edwards Jr. shall cease and desist from violating the Public Utility Code.
3. That Charles H. Edwards Jr. shall pay a civil penalty in the sum of \$1,000 for the violations of 52 Pa. Code § 29.314(d) and 66 Pa.C.S. § 1101.
4. That, in accordance with Section 3301 of the Public Utility Code, 66 Pa.C.S. § 3301, within thirty (30) days of receipt of the Commission's final Opinion and Order, Charles H. Edwards Jr. shall make payment of the civil penalty set forth in Ordering Paragraph 3, above, by certified check or money order, made payable to "Commonwealth of Pennsylvania" and sent to:

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

5. That the Secretary's Bureau shall request the Pennsylvania Department of Transportation to put an administrative hold on and suspend the registration of any vehicle registered to Charles H. Edwards Jr. until the civil penalty has been paid.
6. That the Commission impose any other relief it deems appropriate.
7. That upon payment of the civil penalty set forth in Ordering Paragraph 3, above, the Secretary's Bureau shall mark the proceeding at Docket No. C-2016-2537014 closed.

Pennsylvania Public Utility Commission,
Bureau of Investigation and Enforcement

v.

Charles H. Edwards Jr.

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Docket No. C-2016-2537014

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).

Service by First Class Mail:

Charles H. Edwards Jr.
1611 Sandusky Court
Apartment 245
Pittsburgh, PA 15212

Charles H. Edwards Jr.
601 Pressley Street
Apartment 307
Pittsburgh, PA 15212



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
(717) 705-4366
komyers@pa.gov

Dated: February 24, 2017