**BEFORE THE**

**PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission :

Bureau of Investigation and Enforcement :

:

v. : C-2015-2458845

:

Tengiz Kalandadze t/a Philadelphia Limo :

**INITIAL DECISION**

Before

Angela T. Jones

Administrative Law Judge

INTRODUCTION

This decision sustains a formal complaint (Complaint) alleging Respondent operated vehicles while its insurance coverage lapsed, and assesses $2,500.00 in civil penalties and suspension of Respondent’s certificate of public convenience.

HISTORY OF THE PROCEEDING

On February 24, 2015, the Pennsylvania Public Utility Commission’s (PUC or Commission) Bureau of Investigations and Enforcement (I&E or Complainant) filed a Complaint against Tengiz Kalandadze t/a Philadelphia Limo (Phila Limo or Respondent) alleging, *inter alia,* that Respondent permitted its vehicles to be operated while its insurance coverage lapsed. The Complainant sought civil penalties in the amount of $5,000.00 and cancellation of the Respondent’s certificate of public convenience.

On April 17, 2015, Phila Limo filed an Answer to the Complaint. In the Answer the Respondent alleged that it cancelled any reservation for the time period that corresponds to the lapse in insurance coverage. The Respondent also alleged that it did not service any jobs, but referred potential customers to other providers of limousine service during the time period that its insurance coverage lapsed. The Respondent disputed the fine and requested the Commission to permit it to operate under its certificate of public convenience.

On October 3, 2016, counsel for I&E filed a Motion for Sanctions (Motion) regarding propounded interrogatories that the Respondent failed to answer. The Motion was filed pursuant to the Commission’s regulations at 52 Pa.Code § 5.371(a)(1), which states,

1. The Commission or the presiding officer may, on motion, make an appropriate order if one of the following occurs;
2. A party fails to appear, answer, file sufficient answer, file objections, make a designation or otherwise respond to discovery requests, as required under this subchapter.

Pursuant to the Commission’s regulations at 52 Pa.Code § 5.371(b), which states, “[a] motion for sanctions may be answered within 5 days of service, or in the alternative, the motion may be answered orally at a hearing if a timely hearing has been scheduled within the same 5-day period,” the Respondent’s Answer to the Motion was due on October 11, 2016.[[1]](#footnote-1) The Respondent failed to respond to the Motion on or before October 11, 2016.

By Hearing Notice dated October 26, 2016, an initial in-person hearing was scheduled for Wednesday, December 21, 2016. The Hearing Notice indicated that the undersigned Administrative Law Judge (ALJ) was assigned to this proceeding as the presiding officer.

By Prehearing Order dated November 1, 2016, the undersigned ALJ provided various procedural rules for the proceeding and confirmed the scheduled hearing date as December 21, 2016.

By Order dated November 7, 2016, the undersigned ALJ granted the Motion and directed the Respondent to answer the interrogatories at issue by close of business (COB) November 14, 2016.

I&E filed a second motion for sanctions (Motion II) on November 23, 2016, which noted that the Respondent failed to answer the interrogatories as directed by the November 14, 2016, Order. In Motion II I&E requested that the Respondent be prohibited from asserting any claims or defenses that another carrier performed the trips at issue in this Complaint.

By Order dated December 1, 2016, the undersigned granted I&E’s Motion II.

By letter dated December 1, 2016,[[2]](#footnote-2) the Respondent stated that it needed more time to collect information regarding this Complaint. The letter was signed by Tengiz Kalandadze. There was no indication that the letter was filed with the PUC or a copy sent to counsel for I&E. The undersigned sent an electronic copy of the Respondent’s December 1, 2016, letter to counsel for I&E and on December 12, 2016, filed it with the Secretary’s Bureau.

On December 8, 2016, I&E filed a Motion for Judgment on the Pleadings (MJOP).[[3]](#footnote-3) The MJOP asserted that there are no longer any facts in dispute because Motion II was granted. Also on December 8, 2016, I&E objected to the continuance request of the Respondent. I&E provided a history of the Respondent ignoring I&E’s requests and stated that the continuance request should be denied.

By Order#4 dated December 13, 2016, the undersigned overruled I&E’s objection to the continuance requested by the Complainant and directed that the initial hearing be rescheduled. By Order#4 the undersigned stated that Commission records show the Respondent filed on May 17, 2011, evidence that it became a corporate entity on April 11, 2011. Consequently, Respondent is to be treated as a corporate entity and is required to have legal representation authorized to practice law in the Commonwealth of Pennsylvania. See Pa.Code §§ 1.21 and 1.22.

By Hearing Notice dated December 15, 2016, the initial hearing was rescheduled for Tuesday, January 31, 2017.

By Motion filed on January 5, 2017, but not received by the undersigned until January 11, 2017, counsel for I&E filed a Motion to consolidate Docket No. C-2016-2532820 with the instant Complaint. Docket No. C-2016-2532820 was against the same Respondent for failing to maintain evidence of insurance on file with the Commission. The Complainant sought a civil penalty in the amount of $500.00 and suspension of the Respondent’s certificate of public convenience.

By Order#5 dated January 13, 2017, the undersigned gave the Respondent until COB on January 20, 2017, to provide any reason why Docket No. C-2016-2532820 should not be consolidated with the instant Complaint. The Complainant failed to file any response regarding the consolidation of Docket No. C-2016-2532820 with the instant Complaint.

On January 31, 2017, the initial hearing convened as scheduled. Mr. Kalandadze appeared without any legal representation. Ms. Heidi L. Wushinske, Esquire appeared on behalf of the Complainant. Mr. Kalandadze was permitted to provide testimony.

Counsel for I&E represented that the civil penalty at issue at Docket No. C-2016-2532820 was paid and a certificate of satisfaction would be filed subsequent to the initial hearing.[[4]](#footnote-4)

Attorney Wushinske presented the testimony of one witness, Officer Walter John Allen, and offered one exhibit, which was marked I&E Exhibit 1. I&E Exhibit 1 was admitted into evidence without objection. Mr. Kalandadze testified and was cross-examined by Attorney Wushinske. Mr. Kalandadze did not provide any exhibits for consideration of this proceeding.

The initial hearing resulted in 42 pages of transcribed testimony. The hearing record closed on March 2, 2017, 30 days after the initial hearing adjourned.

Pursuant to 66 Pa.C.S. § 332(e) and 52 Pa.Code § 5.408, by Order#6 dated March 22, 2017, the undersigned provided the parties with official notice of the Respondent’s history of violations with the Commission and the two types of service for which authority was granted to the Respondent by the Commission. Order#6 also opened the record for the parties’ review of the official notice and any timely response.

No party timely filed an objection or any alternative fact to the official notice provided. The record closed on March 31, 2017, when any objection or alternative fact to the official notice was due. This matter is ripe for decision.

Findings of Fact

* + - 1. The Respondent is Tengiz Kalandadze t/a Philadelphia Limo with a principal place of business at 830 Selmer Road, Philadelphia, Pennsylvania 19116. Tr. 12.
      2. The Commission issued a certificate of public convenience to operate as a motor carrier of passengers to Respondent on June 9, 2009, at Docket No. A-2008-2065447 for limousine authority. Complaint at 1, ¶2, Tr. 24.
      3. Officer Walter John Allen is employed by the Commission in motor carrier enforcement which regulated all motor carrier companies and vehicles under the jurisdiction of the PUC. Tr. 10.
      4. Officer Allen has been employed with the Commission in motor carrier enforcement since October 2013. Tr. 10.
      5. The Respondent’s insurance lapsed resulting in no insurance coverage on file with the Commission from December 10, 2014, through December 16, 2014. Complaint at 1, ¶ 3, Tr. 18-20.
      6. The Respondent provided limousine service on December 16, 2014, which was a trip totaling 101 miles from Chalfont, Pennsylvania to Philadelphia, Pennsylvania. Tr. 13-14, I&E Exhibit 1.
      7. The Respondent provided limousine service on December 14, 2014, which was a trip totaling 103 miles from Doylestown, Pennsylvania to Center City Philadelphia, Pennsylvania. Tr. 14, I&E Exhibit 1.
      8. The Respondent provided limousine service on December 13, 2014, which was a trip totaling 60 miles from Philadelphia, Pennsylvania to Willow Grove, Pennsylvania. Tr. 15, I&E Exhibit 1.
      9. The Respondent provided group and party service on December 12, 2014, which was a trip totaling 145 miles. Tr. 15, I&E Exhibit 1.
      10. The Respondent obtained authority for group and party service on February 19, 2015, at Docket No. A-2013-2390503. Official notice.
      11. The Respondent provided limousine service on December 10, 2014, which was a trip totaling 90 miles. Tr. 16, I&E Exhibit 1.
      12. Officer Allen determined violations of the Commission’s regulations against the Respondent for limousine service trips on December 10, 13, 14 and 16 for a total of 4 days. Tr. 14, 15, 16, I&E Exhibit 1.
      13. The Respondent operated limousine service on December 10, 13, 14, and 16 without insurance coverage and did not have proof of insurance on file with the Commission on these dates. Tr. 18, I&E Exhibit 1.
      14. The trip on December 12, 2014, was a violation of the Commission’s regulation against the Respondent for operating group and party service without the appropriate authority. Tr. 20-21, I&E Exhibit 1, Official notice.
      15. Tengiz Kalandadze has owned Philadelphia Limo for about six to seven years. Tr. 24.
      16. Mr. Kalandadze confirmed his signature on the trip log sheet. Tr. 30, I&E Exhibit 1.
      17. The Respondent’s bus holds 14 passengers. Tr. 35.

Discussion

Conduct Supporting Violations

The Commission is empowered and charged with the duty to enforce the requirements of the Public Utility Code (Code). 66 Pa.C.S. § 501(a). The Commission delegated authority to I&E to initiate prosecutions, such as the instant case, to enforce its regulation and statute. I&E is the proponent of a Commission regulation, statute, rule or order and, therefore, as the party seeking an order from the Commission, I&E bears the burden of proof in this case. 66 Pa.C.S. § 332(a) states, “[e]xcept as may be otherwise provided in section 315 (relating to burden of proof) or other provisions of this part or other relevant statute, the proponent of a rule or order has the burden of proof.”[[5]](#footnote-5)

The degree of proof to which the proponent must meet to establish its case before the Commission is preponderance of the evidence. *Samuel J. Lansberry, Inc. v. Pa. Pub. Util. Comm’n,* 578 A.2d 600 (Pa.Cmwlth. 1990), alloc. denied., 602 A.2d 863 (Pa. 1992). The term “preponderance of the evidence” means the proponent, I&E, must present evidence that is more convincing, by even the smallest amount, than the evidence presented by the Respondent. *Se Ling Hosiery v. Margulies,* 70 A.2d 854 (Pa. 1950). 66 Pa. C.S. §1303, 52 Pa.Code §§ 31.27, 31.122(2) and 31.134(c).

The Respondent failed to provide timely responses to the discovery propounded by I&E. Consequently, the Respondent was prohibited from asserting any claims or defenses that another carrier performed the trips at issue. *Pa. Pub. Util. Comm’n Bureau of Investigation and Enforcement v. Tengiz Kalandadze t/a Philadelphia Limo,* Docket No. C-2015-2458845 (Order dated December 1, 2016) at 5.

The Respondent filed as a corporation with the Commission on May 17, 2011. This matter is an adversarial proceeding, which is defined as, “A proceeding initiated by a person to seek …enforcement, fines, remedies or other relief from the Commission which is contested by one or more other persons and which will be decided on the basis of a formal record.” 52 Pa.Code § 1.8(a) “adversarial proceeding”. Pursuant to 52 Pa.Code § 1.21(b), “… persons in adversarial proceedings shall be represented in accordance with § 1.22 (relating to appearance by attorneys and legal intern).” The Respondent was not represented by an attorney. Consequently, the Respondent was prohibited from conducting cross-examination of any of the Complainant’s witnesses, objecting to any questions, or exhibiting any other conduct permitted by an attorney licensed to practice in the Commonwealth of Pennsylvania.

In its Complaint filed on February 24, 2015, I&E alleged the following facts in Numbered Paragraphs 1, 2, 3, 5 and 6:[[6]](#footnote-6)

1. That Tengiz Kalandaze [sic] t/a Philadelphia Limo, Respondent, maintain a principal place of business at 830 Selmer Road, Philadelphia, Pennsylvania 19116.

2. That Respondent was issued a certificate of public convenience by this Commission on June 9, 2009, at Application Docket No. A-2008-2065447 for limousine authority.

3. That Respondent’s operating rights were suspended on December 10, 2014, for failure to maintain evidence of insurance on file with this Commission. Evidence of insurance was filed which indicated insurance coverage was effective December 17, 2014. Therefore, there was a lapse of insurance coverage from December 10, 2014 through December 16, 2014.

4. That on January 21, 2015, PUC Enforcement Officer John Allen traveled to Respondent’s place of business to request trip sheets from owner Tangiz Kalandaze [sic] for the period in paragraph 3….

5. Logs received by fax on January 26, 2015[,] revealed that Respondent permitted a vehicle to be operated on December 10, December 12, 13, 14, and December 16, all days during the time period of the lapse of insurance coverage.

6. That Respondent, by permitting vehicles to be operated while under suspension, violated 52 Pa.Code §§ 32.2 and 32.11 and 66 Pa.C.S. § 501(c), in that it failed to observe, obey and comply with Commission regulation[s] or order, and the terms and conditions thereof. The penalty for this violation is $1,000.00 for each day Respondent operated during the suspension, for a total of $5,000.00, and cancellation of the certificate of public convenience.

The Respondent was issued a certificate of public convenience for group and party service on February 19, 2015, at Docket No. A-2013-2390503. (FOF #10).

Although the Respondent did not obtain group and party service authority until February 19, 2015, the Respondent provided party bus service on December 12, 2014. Tr. 15, I&E Exhibit 1. The Complainant’s witness, Officer Allen testified,

Witness: …party bus would be covered under the limousine [authority].

Judge Jones: So, I am just trying to make sure that the violation doesn’t cover service outside of limousine service, correct?

Witness: No, Your Honor.

Judge Jones: …So, the violation is for a lapse in insurance only?

Witness: That’s correct, Your Honor.

Judge Jones: Okay. Then it is your testimony that insurance for bus service and insurance for limousine service had the same terms and coverage times, or coverage periods?

Witness: Well, it’s listed as a party bus as long as it’s under 16 passengers, I believe. Still it would be covered under the limo [authority], it could be a small van that takes eight people somewhere.

\* \* \*

Judge Jones: But my question was, was the insurance for Philadelphia Limo for a party bus service or bus service, is it the assumption of you as the enforcement officer that the coverage period for that service is the same [as] the coverage period for limousine service?

Witness: Yes, Your Honor.

Tr. 20-21. Consequently through the testimony of its witness, the Complainant held that the violation on December 12, 2014, was providing limousine service without liability or insurance coverage.

The notice of the violation given to the Respondent was that of providing limousine service without insurance coverage; rather than, providing group and party service without authority. Since the Respondent is to be given notice and an opportunity to heard on the allegations raised in the Complaint, it would be without notice to sustain a violation of operating without authority on December 12, 2014. Furthermore, it is true that Respondent did not have liability insurance for either group and party service or limousine service on December 12, 2014. Consequently, I find the record evidence showed Respondent violated the Commission regulations and operated without appropriate liability insurance on December 12, 2014.

Through the observations and investigation of its motor carrier enforcement officer, I&E proved the location of Respondent’s place of business and details about limousine service and group and party service provided to the public which violated Commission regulations.

The Respondent did not dispute that there was a lapse in insurance coverage. Rather the Respondent provided evidence of insurance coverage for December 2015 through December 2016, but not the period at issue, which is December 10, 2014 through December 16, 2014. Tr. 25-27. Additionally, Mr. Kalandadze acknowledged his signature as certifying the information on the trip sheets or driver’s log. Tr. 29-30.

Based in the evidence of the record, I find that the Complainant has satisfied its burden of proof. I also find that the Respondent failed to rebut the evidence provided by the Complainant. I find that the Complainant proved that the Respondent operated limousine service to the public while it was not covered by insurance, which is prohibited by PUC regulations and statute. Therefore, having met the requirements of proving the accuracy of its allegations, the Complaint of I&E is granted as shown by the ordering paragraphs below.

Civil Penalty

The Complainant seeks a $1,000.00 civil penalty for the each day the Respondent provided limousine service to the public without evidence of insurance coverage in violation of the Commission’s regulations and statute. This proposed civil penalty is in compliance with *Act 164 of 2016—Implementation of Chapter 26,* Docket No. L-2016-2574379 (Order entered December 8, 2016)(*Implementation of Chpt 26*) at 10 and Appendix C, which states, “**Certificate Cancellation plus $1000 per violation per day** (this is the maximum fine permitted) operating while certificate is under suspension – when a lapse in insurance coverage has occurred.” (Emphasis in original).

Having concluded Respondent violated the Code by providing limousine service to the public without evidence of insurance coverage in violation of the Commission’s regulations and statute, it is appropriate to consider the assessment of a civil penalty. Section 3301 of the Code provides that if any public utility fails to comply with any Commission regulation it shall forfeit and pay to the Commonwealth a sum not exceeding $1,000.00 per day of violation. 66 Pa.C.S. § 3301. To implement this section, the Commission has adopted certain standards that must be applied when imposing a civil penalty for violations of Commission directives and regulations. See 52 Pa.Code § 69.1201; see also, *Rosi v. Bell Atlantic-Pa., Inc. and Sprint Communications Co.,* Docket No. C 00992409 (Order entered February 10, 2000) (*Rosi*).

Pursuant to Section 1501 of the Code, a company or individual, which provides motor carrier transportation services to the public, is considered to be a public utility required to provide reasonable service to their customers. 66 Pa.C.S. § 1501. The Commission has exclusive jurisdiction to determine the reasonableness, adequacy and sufficiency of a public utility’s services and facilities. *Elkin v. Bell of Pa.,* 420 A.2d 371 (Pa.Cmwlth. 1980). The term “service” should be “used in its broadest and most inclusive sense, including any and all acts done, rendered, or performed, and any and all things furnished or supplied…by public utilities…in the performance of their duties under the Public Utility Code.…” 66 Pa.C.S. § 102 (definition for “service”).

Sections 3301(a) and (b) of the Public Utility Code, 66 Pa.C.S. § 3301(a) and (b) authorize the Commission to impose a maximum civil penalty of $1,000 per day for violations of its statutes, regulations and orders. The Commission has adopted certain standards that are to be applied in determining the amount of civil penalties when violations are admitted or determined to have occurred. There are ten standards which the Commission first articulated in *Rosi*, which are now published at 52 Pa.Code § 69.1201 in the Commission’s Policy Statements and Guidelines.

The first criterion to consider is whether the violation was of a serious nature or whether it was less egregious, such as an administrative or technical error. The Complainant noted evidence of insurance was filed effective December 17, 2014, which is after operating rights of the Respondent were suspended on December 10, 2014, for failure to maintain evidence of insurance with the Commission. Complaint at 1, ¶ 3. The evidence suggests a conclusion that this violation though serious was an administrative error. I find that the evidence does not support a higher penalty because the violation is an administrative error and a lower penalty is reasonable.

The second criterion is whether the resulting consequences of the conduct were of a serious nature, such as personal injury or property damage. The consequence of Respondent’s conduct did not result in personal injury or property damage. No individual is known to have been harmed because of the lapse in insurance coverage. If there were a reason to file an insurance claim during the period from December 10, 2014 through December 16, 2014, the Respondent would not have been covered. The result of the Respondent being unable to pay for personal injury suffered by a member of the public is unreasonable and it is why the Commission enforces this policy. Fortunately, in this case the lapse of insurance coverage did not yield a catastrophic result for the Respondent or a member of the public. The fact remains the record has no personal injury or property damage. Thus, I conclude the consequences warrant a lower penalty.

The third criterion is whether the conduct at issue was deemed intentional or negligent. Respondent testified, “What’s happened, they don’t give us information they cancel us, insurance. When we got the information, we immediately made insurance.” Tr. 27-28. I find this statement by the Respondent credible. Thus, I conclude that the conduct at issue is unintentional and negligent, which warrants a lower penalty.

The fourth criterion 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. There is no record evidence to show whether the Respondent made efforts to modify internal practices and procedures to address the conduct at issue or to prevent similar conduct from reoccurring. However, there is evidence that the Respondent had formal complaints at Docket Nos. C-2016-2532820 and Docket No. C-2012-2282661 filed against it for failure to maintain evidence of liability insurance on file with the Commission.[[7]](#footnote-7) Consequently, if the Respondent made efforts to prevent reoccurrence of the conduct pertinent to the instant Complaint, such efforts were not successful. In any event, I conclude this criterion indeterminate for a penalty.

The fifth criterion is the number of customers affected. According to the evidence, the Respondent performed the egregious conduct at issue on the following dates:

1. trip on December 16, 2014;
2. trip on December 14, 2014;
3. trip on December 13, 2014;
4. trip on December 12, 2014; and
5. trip on December 10, 2014.

I&E Exhibit 1. There is no record evidence of how many passengers were aboard each trip. The trip on December 12, 2014, was performed with a party bus as the vehicle. Tr. 20, I&E Exhibit 1. Respondent’s party bus has a capacity of 14 passengers. Tr. 35. Based on the record evidence it is undetermined the number of customers affected but it has the potential to be over 30 passengers. Thus, I conclude a mid-range penalty is warranted.

The sixth criterion is consideration of Respondent’s compliance history. The Respondent has had four other violations other than the instant Complaint. The Complainant alleged the Respondent violated Commission regulations in February 2016 at Docket No. C-2016-2532820 for similar conduct as in the instant Complaint (failure to maintain evidence of insurance). The fine was $500.00. The Respondent paid $170.00 on January 25, 2017, and $330.00 on February 7, 2017. The Respondent’s history with the Commission shows that it was fined in February 2012, in the amount of $500.00 for a violation at Docket No. C-2012-2282661 for similar conduct as in the instant Complaint (failure to maintain evidence of insurance). The Respondent paid $500.00 on August 14, 2013. The Respondent’s history with the Commission shows it was fined $250.00 for failure to file a vehicle list in December 2010 at Docket No. C-2011-2271338. The Respondent paid $250.00 on February 1, 2012. The Respondent’s history with the Commission shows it was fined $250.00 for failure to file a vehicle list in December 2009 at Docket No. C-2010-2192007. The Respondent paid $250.00 on December 28, 2011. I conclude this criterion warrants a higher penalty. I reach this conclusion because the Respondent has a history of non-compliance with the Commission’s rules and regulations. Addionally, the Respondent has been charged with this same violation prior to and subsequent to the circumstances of the instant Complaint and has failed to display diligence in preventing reoccurrence of the same prohibited conduct.

The seventh criterion is whether the regulated entity cooperated with the Commission’s investigation. The hearing record evidence shows that the Respondent provided the driver’s log to the Complainant. The hearing record also shows that the Respondent failed to answer the discovery propounded by the Complainant. However, the Respondent did appear at the scheduled evidentiary hearing rather than fail to appear at all. Based on the totality of the record, I conclude a mid-range penalty is warranted.

The eighth criterion is the amount of the civil penalty or fine necessary to deter future violations, with consideration of the size of the utility. I&E requested the civil penalty equal $5,000.00, or $1,0000.00 per day of each violation. The amount of $1,000.00 is the maximum amount per violation permitted. See *Implementation of Chpt 26,* at Appendix C. In consideration of all relevant factors, I conclude I&E’s suggested penalty of $5,000.00 is excessive. The criteria for analysis of assessing the civil penalty concluded with just one criterion finding a higher penalty was warranted. The majority of the criteria yielded an assessment of a lower range penalty. It is only because the Respondent has a poor compliance history that a high penalty was considered to deter future violations. I agree that it is reasonable to increase the amount of the fine above $500.00, which has been assessed in the past. However, I do not find that an increase to the maximum amount is just. Accordingly, I conclude a more appropriate penalty to deter future violations is $2,500.00 based on the facts admitted into the record.

The ninth criterion is past Commission decisions. As noted previously, the Commission fined the Respondent in 2012 and 2016 for engaging in the same conduct as cited by I&E in the instant Complaint. This criterion works to aggravate the penalty to be imposed.

The tenth criterion is other relevant factors. No other factors have been suggested or considered other than those previously discussed.

In any case in which a civil penalty is assessed, these ten factors must be considered when calculating the amount of the penalty. The factors are meant to ascertain, in general, how serious was the conduct and intention of the utility, how the individual consumer was affected and how the utility’s conduct may bode for similar future situations. In this proceeding, Respondents’ actions – to offer limousine and group and party service to the public without appropriate liability coverage as insurance – were serious and warrant a mid-range penalty.

The evidence presented and taken as a whole proves a civil penalty is necessary to deter future violations. Therefore, I am assessing a two thousand five hundred dollar ($2,500.00) civil penalty against the Respondent. This penalty takes into consideration the Respondent’s failure to stop continuing violations previously noted by the Commission. I do not think that the conduct of the Respondent, though deliberate, warrants the maximum penalty and the cancellation of its certificate of public convenience. However, the Respondent’s failure to timely file evidence of liability insurance coverage or refrain from operating until such coverage is obtained may cause the Commission to assess the maximum penalty in the future.

Conclusion

Based on a review of the standards set forth in *Rosi*, I conclude a civil penalty in the amount of $2,500.00 is reasonable. Accordingly the formal complaint is sustained in the ordering paragraphs below, Respondents are ordered to pay a civil penalty and I&E’s request to have the certificate of public convenience cancelled is denied. However, the certificate of public convenience is suspended until the Respondent pays the civil penalty assessed herein.

CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the parties and the subject matter of this proceeding. 66 Pa.C.S. §§ 501 and 701.

2. The Commission has the power, and the duty, to enforce the requirements of the Public Utility Code, pursuant to 66 Pa.C.S. § 501(c).

3. Pursuant to 66 Pa.C.S. § 332(a), the burden of proof in this proceeding is on the Bureau of Investigation and Enforcement as the proponent of a Commission Order.

4. Tengiz Kalandadze t/a Philadelphia Limo did begin to offer, render, furnish or supply limousine services within the Commonwealth without first filing evidence of liability insurance coverage with the Commission pursuant to 66 Pa.C.S. § 512, 52 Pa. Code §§ 32.2(c), 32.11 and 32.12.

ORDER

THEREFORE,

IT IS ORDERED:

1. That the formal complaint filed by the Bureau of Investigation and Enforcement of the Pennsylvania Public Utility Commission against Tengiz Kalandadze t/a Philadelphia Limo, at C-2015-2458845 is sustained.

2. That Tengiz Kalandadze t/a Philadelphia Limo shall pay a civil penalty of two thousand five hundred dollars ($2,500.00) for violation of the Public Utility Code, 66 Pa. C.S. §§ 501(c) and 512 and 52 Pa.Code §§ 32.2(c), 32.11 and 32.12, by certified check or money order, within twenty (20) days after service of the Commission’s order, made payable to Commonwealth of Pennsylvania and forwarded to:

Secretary Rosemary Chiavetta

Pennsylvania Public Utility Commission

P.O. Box 3265

Harrisburg, PA 17105-3265

3. That Tengiz Kalandadze t/a Philadelphia Limo shall cease and desist from further violations of the Public Utility Code and the Public Utility Commission’s regulations.

4. That the certificate of public convenience at A-2008-2065447 is suspended until Tengiz Kalandadze t/a Philadelphia Limo complies with ordering paragraph 2 above and pays the civil penalty in full.

5. That the record at Docket No. C-2015-2458845 shall be marked closed.

Date: April 5, 2017 /s/ Angela T. Jones

Administrative Law Judge

1. Five days from October 3, 2016, was October 8, 2016. October 8, 2016, was a Saturday. Pursuant to 52 Pa.Code § 1.12(a) a period cannot end on a Saturday, Sunday or a legal holiday recognized by the Commonwealth of Pennsylvania and must end on the next day that is not a Saturday, Sunday, or legal holiday. October 10, 2016, was Columbus Day, recognized as a legal holiday by the Commonwealth of Pennsylvania. Thus, the response to the Motion was due on the next day, which was October 11, 2016. [↑](#footnote-ref-1)
2. Although the letter was dated December 1, 2016, the undersigned did not receive the letter until December 6, 2016. [↑](#footnote-ref-2)
3. I&E provided an alternative that the MJOP be addressed at the initial hearing. At the initial hearing, counsel for I&E did not request a ruling on the pending MJOP. [↑](#footnote-ref-3)
4. A certificate of satisfaction was filed at Docket No. C-2016-2532820 on February 7, 2017. [↑](#footnote-ref-4)
5. 66 Pa.C.S. § 315(a) does not apply in this proceeding because this matter did not arise upon the motion of the Commission, involve a proposed or existing rate of a public utility, or involve a complaint about a proposed increase in rates. [↑](#footnote-ref-5)
6. In the Complaint there are two paragraphs numbered “5”. The second numbered paragraph“5” is a typographical error and should be numbered “6”. [↑](#footnote-ref-6)
7. The formal complaint at Docket No. C-2016-2532820 was filed after the instant Complaint. The Respondent’s authority was under suspension as of February 3, 2016, because of no current insurance on file with the Commission. [↑](#footnote-ref-7)