

**PENNSYLVANIA PUBLIC UTILITY COMMISSION
HARRISBURG, PA 17120**

**Pennsylvania Public Utility Commission,
Bureau of Investigation & Enforcement
v.
Capital City Cab Service**

**Public Meeting held August 3, 2017
2464291 – OSA
Docket No. C-2015-2464291**

MOTION OF COMMISSIONER DAVID W. SWEET

This case comes to us upon exceptions filed to the Initial Decision of Administrative Law Judge Steven K. Haas, which found that the Commission's Bureau of Investigation & Enforcement (I&E) did not carry its burden of proving that the act of a Capital City Cab driver in refusing a fare was a violation of the Commission's statute or regulations. The ALJ found that it was I&E's burden of proving that the fare was refused because it was not going far enough, and that they presented insufficient evidence to support the claim.

I&E's exceptions point out that there are two sections regarding burden of proof in the Public Utility Code, both of which were cited by the ALJ. Section 315 states that, where there is commission determination or order that is violated by a utility, that utility has the burden of proving compliance.¹ Section 332 provides that the proponent of a rule or order has the burden of proof except as provided elsewhere in the Public Utility Code, specifically in Section 315.² This is the section used in the majority of complaints, with the exceptions of those brought under Section 315 and complaints against a base rate filing, where the utility has the burden of proof.³

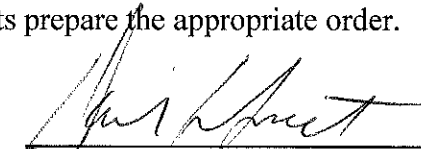
This Complaint clearly cites the alleged offense as a violation of a Commission regulation, 52 Pa.Code § 29.313(a), failure to furnish and maintain adequate, efficient, safe and reasonable service. Accordingly, the proper section to apply is Section 332, which places the burden of proof squarely on the complaining party. When the correct burden of proof is applied, the determination of ALJ Haas is sound and should be affirmed.

THEREFORE,

I MOVE:

1. That the Initial Decision of Administrative Law Steven K. Haas be affirmed.
2. That the Office of Special Assistants prepare the appropriate order.

August 3, 2017
DATE



David W. Sweet
Commissioner

¹ 66 Pa.C.S.A § 315(b).

² 66 Pa.C.S.A. § 332(a).

³ 66 Pa.C.S.A. § 1308.