



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

April 16, 2018

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. Integrated Medical Transport, LLC
Docket No. C-2018-2601225
(I&E Reply to New Matter)

Dear Secretary Chiavetta:

Enclosed for electronic filing is the Reply of the Bureau of Investigation and Enforcement to the New Matter of Integrated Medical Transport, LLC 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,

Kourtney L. Myers
Prosecutor
PA Attorney ID No. 316494

Prosecutor for the Bureau of
Investigation and Enforcement

Enclosure

cc: As per Certificate of Service

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission,	:	
Bureau of Investigation and Enforcement,	:	
Complainant	:	
	:	
v.	:	Docket No. C-2018-2601225
	:	
Integrated Medical Transport, LLC,	:	
Respondent	:	

REPLY TO NEW MATTER

NOW COMES, the Bureau of Investigation and Enforcement (“I&E”) of the Pennsylvania Public Utility Commission (“Commission” or “PUC”), Complainant in the above-docketed matter, by and through its prosecuting attorneys, and replies to the New Matter of Integrated Medical Transport, LLC (“IMT” or “Respondent”), pursuant to 52 Pa. Code § 5.63(a). In support thereof, I&E avers as follows:

I. BACKGROUND

IMT was granted Commission approval to operate as a motor carrier of passengers in paratransit authority on or about December 27, 2016, at A-2016-2567318. Only four months later, on April 19, 2017, Respondent’s Certificate of Public Convenience (“Certificate”) was suspended due to Respondent’s failure to timely file evidence of liability insurance with the Commission. Respondent’s Certificate was suspended pursuant to Section 32.2(h) of the Commission’s regulations, 52 Pa. Code § 32.2(h), which provides, in pertinent part, that the failure to maintain evidence of insurance on file with the Commission in accordance with Chapter 32 of the Commission’s regulations, 52

Pa. Code Ch. 32, shall result in the *immediate* suspension of a motor carrier's operating rights. On April 27, 2017, Respondent untimely filed evidence of liability insurance with the Commission, which indicated that Respondent's insurance coverage was effective April 22, 2017 and that there was a clear, three-day lapse in Respondent's insurance coverage, beginning April 19, 2017 through April 21, 2017 ("Lapse Period").

On December 19, 2017, PUC Enforcement Officer Zachary Taylor requested that Respondent produce logs sheets for the Lapse Period. A review of the log sheets, demonstrated that Respondent permitted its vehicles to be operated each day during the Lapse Period.

Accordingly, on January 23, 2018, I&E filed a Complaint against Respondent at Docket No. C-2018-2601225, alleging that Respondent violated Sections 32.2 and 32.11 of the Commission's regulations, 52 Pa. Code §§ 32.2 and 32.11, for failing to timely file evidence of liability insurance with the Commission and Section 501(c) of the Public Utility Code, 66 Pa.C.S. § 501(c), for failing to observe obey and comply with a Commission regulation or order. I&E seeks payment of a civil penalty in the amount of \$3,000 and cancellation of Respondent's Certificate.

On March 26, 2018, IMT filed its Answer with New Matter at the above docket.

II. REPLY TO NEW MATTER

1. Denied. To the extent that Respondent attempts to incorporate any and all assertions made in Paragraphs 1-6 of its Answer as New Matter, this is denied. Pursuant to Section 5.62 of the Commission's regulations, 52 Pa. Code § 5.62, affirmative defenses must be set forth under the heading of "New Matter." New matter is limited to

material facts that are not merely denials of the averments of the preceding pleadings. 52 Pa. Code § 5.62(b). Respondent violates these requirements by attempting to incorporate all paragraphs of its Answer as New Matter. I&E rejects this attempt and denies these allegations.

2. Denied. It is specifically denied that IMT maintained sufficient, continuous bodily injury and property damage liability insurance coverage. As set forth in I&E's Complaint, Respondent's Certificate was suspended on April 19, 2017 due to its failure to timely file evidence of liability insurance with the Commission. Respondent's insurer did not a Form E with the Commission until April 27, 2017, which indicated that Respondent's insurance coverage was effective April 22, 2017. Therefore, I&E submits that Respondent not only failed to timely file evidence of insurance with the Commission, but that Respondent also failed to maintain insurance coverage from April 19, 2017 through April 21, 2017.

3. Denied. I&E is without knowledge sufficient to form a belief as to the truth of the matters asserted and the same are therefore denied and strict proof thereof demanded at trial. To the extent a response is required, these allegations are denied.

4. Denied. I&E is without knowledge sufficient to form a belief as to the truth of the matters asserted and the same are therefore denied and strict proof thereof demanded at trial. To the extent a response is required, these allegations are denied.

5. Denied. I&E is without knowledge sufficient to form a belief as to the truth of the matters asserted and the same are therefore denied and strict proof thereof demanded at trial. To the extent a response is required, these allegations are denied.

6. Denied. I&E is without knowledge sufficient to form a belief as to the truth of the matters asserted and the same are therefore denied and strict proof thereof demanded at trial. To the extent a response is required, these allegations are denied.

7. Denied. I&E is without knowledge sufficient to form a belief as to the truth of the matters asserted and the same are therefore denied and strict proof thereof demanded at trial. To the extent a response is required, these allegations are denied. By way of further answer, Respondent specifically admits that its insurer, Selective Insurance Company of America (“Selective”), did not file a Form E with the Commission evidencing proof of liability insurance during the Lapse Period “due to the short nature of the gap period.” Therefore, it is uncontested that Respondent violated the Commission’s regulations at Sections 32.2 and 32.11, 52 Pa. Code §§ 32.2 and 32.11, which mandates that evidence of insurance be timely filed with the Commission before a motor carrier engages in intrastate commerce and forms the basis of I&E’s Complaint in this matter. Because Respondent specifically admits that its insurer did not timely file evidence of insurance with the Commission, I&E submits that this admission and fact must be considered against Respondent.

8. Denied. I&E is without knowledge sufficient to form a belief as to the truth of the matters asserted and the same are therefore denied and strict proof thereof demanded at trial. To the extent a response is required, these allegations are denied.

9. Admitted in part and denied in part. It is admitted that Respondent attached to its Answer and New Matter “Exhibit 1,” which consists of a copy of a letter addressed to the Commission from Selective, dated March 12, 2018 and copies of commercial

automobile endorsements for Respondent. Such documents speak for themselves, and no further answer is necessary to those allegations. To the extent any further response is required, I&E denies those allegations.

10. Admitted in part and denied in part. It is admitted that Respondent attached to its Answer and New Matter “Exhibit 2,” which consists of a copy of Respondent’s insurance information as it appears on the Motor Carrier Information Exchange’s National Online Registries Website along with a copy of a business auto coverage declarations for Respondent. Such documents speak for themselves, and no further answer is necessary to those allegations. To the extent any further response is required, I&E denies those allegations. I&E is without sufficient knowledge to form a belief as to the date that IMT obtained an annual insurance coverage policy from National Liability & Fire Insurance Company (“National”) and the date that such policy was bound and the same are therefore denied and strict proof thereof demanded at trial. It is specifically denied that such policy became effective on April 21, 2017, as the Form E that National filed with the Commission on April 27, 2017 indicates that Respondent’s policy became effective on April 22, 2017.

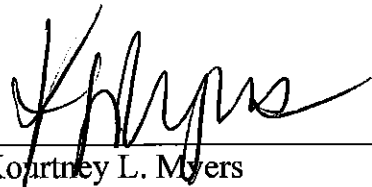
11. Denied. It is denied that IMT obeyed and complied with its obligations under the Commission’s regulations and the Public Utility Code. Section 32.11(a) of the Commission’s regulations strictly prohibits a motor carrier from engaging in intrastate commerce “until there has been *filed with and approved by the Commission* a certificate of insurance by an insurer authorized to do business in this Commonwealth.” 52 Pa.

Code § 32.11(a) (emphasis added). It is undisputed that Respondent failed to *timely* file evidence of liability insurance with the Commission in accordance with 52 Pa. Code § 32.11(a) and Respondent even admitted to the same in Paragraph 7 of its New Matter. Respondent's failure to timely file evidence of insurance with the Commission resulted in the suspension of Respondent's Certificate pursuant to 52 Pa. Code 32.2(h). Although Respondent failed to timely file evidence of insurance with the Commission, which resulted in the immediate suspension of its operating rights, Respondent continued to operate throughout the Lapse Period. Additionally, Respondent did not attempt to file any evidence of insurance for the Lapse Period until March 12, 2018, which was in response to I&E's Complaint and almost a year after the Lapse Period occurred. It is further denied that Respondent's insurer's decision not to submit a Form E in April 2017 and the Commission's purported refusal to accept a Form E from Respondent, which was almost a year late, made it impossible for IMT to comply with the Commission's regulations and the Public Utility Code. IMT should have been well aware of its obligations under the Commission's regulations and the Public Utility Code to maintain and timely file evidence of insurance with the Commission, particularly when only four months prior to the instant matter, Respondent was required to file evidence of insurance with the Commission in order to obtain its Certificate.

12. Denied. This averment sets forth a legal conclusion to which no response is required.

WHEREFORE, for all the foregoing reasons, the Bureau of Investigation and Enforcement of the Pennsylvania Public Utility Commission respectfully requests that the Commission and the Office of Administrative Law Judge sustain I&E's Complaint, dismiss Respondent's Answer and New Matter, cancel Respondent's Certificate of Public Convenience, and direct Respondent to immediately pay I&E's requested civil penalty of \$3,000.

Respectfully submitted,



Kourtney L. Myers
Prosecutor
PA Attorney ID No. 316494

Bureau of Investigation & Enforcement
Pennsylvania Public Utility Commission
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Harrisburg, PA 17105-3265
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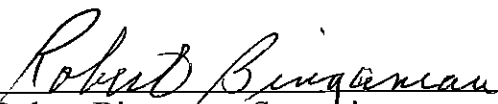
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VERIFICATION

I, Robert Bingaman, Supervisor, Bureau of Technical Utility Services, Motor Carrier Compliance, 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: April 16, 2018



Robert Bingaman, Supervisor
Motor Carrier Compliance
Bureau of Technical Utility Services
PA Public Utility Commission
P.O. Box 3265
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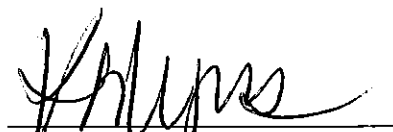
CERTIFICATE OF SERVICE

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).

Notification by First Class Mail and Electronic Mail:

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Counsel for Integrated Medical Transport, LLC


Kourtney L. Myers
Prosecutor
PA Attorney ID No. 316494

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Dated: April 16, 2018