

PENNSYLVANIA  
PUBLIC UTILITY COMMISSION  
Harrisburg, PA 17105-3265

Pennsylvania Public Utility Commission,  
Bureau of Investigation and Enforcement

C-2016-2549574

vs.

Luxury Limousine Service, Inc.

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SECRETARY'S BUREAU

**MOTION FOR RECONSIDERATION AND STAY OF  
THE ORDER ENTERED FEBRUARY 9, 2018**

Now comes Luxury Limousine Service, by and through their attorney Clinton L. Johnson, Esquire and herein moves the Public Utility should be granted the requested relief for the following reasons:

1. The respondent was issued a Certificate of Public Convenience (Certificate) on April 6, 2000 for group and party 16 or greater authority and limousines authority.
2. On June 6, 2016, I & E (Investigation and Enforcement) filed a complaint alleging that respondent failed to pay an outstanding assessment in leaving a balance.
3. The Defendant made partial payment and sought permission to make a payment arrangement based upon financial necessity in light of the excessive competition from companies like Uber and Lyft.
4. I & E filed a Motion for Default for respondent's failure to file answer to the complaint.
5. The Motion for Default was sustained by the PUC by opinion and order dated February 9, 2018, a copy of which is attached and marked Exhibit "A".

6. Rob Bigamon a representative of the PUC granted permission to the Respondent to pay the assessment balance on or before March 18, 2018.
7. The Respondent paid the assessment balance of \$1,000.34 on March 16, 2018, as directed in Paragraph 7 of the Order, after which the proceeding is to be marked closed, see copy of money order Exhibit B, the payment was accepted and applied to their account.
8. Notwithstanding, Respondent's compliance with the Commission's Order by mailing payment, by letter dated March 16, 2018, from the Secretary of the Commission, the Respondent's Certificate of Public Convenience held by Luxury Limousine, Inc., at Application Docket No. A-00115605, Folders 2 and 3 was cancelled a copy of which is attached and marked as Exhibit C.

WHEREFORE, the Respondent respectfully requests that the PUC do the following:

1. Reconsider its Order of February 9, 2018;
2. Vacate the action by the Secretary of the Commission cancelling the review Certificate of Public Convenience held by Luxury Limousine, Inc. at Application Docket No. A-00115605, Folders 2 and 3; and
3. Reinstate the Respondent's Certificate of Public Convenience held by Luxury Limousine, Inc., at Application Docket No. A-00115605, Folders 2 and 3.

Respectfully submitted,

CLINTON L. JOHNSON, ESQUIRE  
Attorney I.D. No. 27996  
1010 West 7th Street  
Chester, Pennsylvania 19013  
Telephone: (610) 874-1977

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Date: 4/16/18

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vs.

Luxury Limousine Service, Inc.

VERIFICATION

I, Perry Camerlengo am the Agent for Respondent in the above captioned matter.

I verify that the statements made in the "MOTION FOR RECONSIDERATION AND STAY OF THE ORDER ENTERED FEBRUARY 9, 2018" are true and correct to the best of my knowledge, information and belief.

I understand that the statements made herein are made subject to the penalties of 18 Pa C.S.A. Section 4904, relating to unsworn falsification to authorities.

Respectfully Submitted,

*Perry Camerlengo*  
PERRY CAMERLENGO

**PENNSYLVANIA  
PUBLIC UTILITY COMMISSION  
Harrisburg, PA 17105-3265**

Pennsylvania Public Utility Commission,  
Bureau of Investigation and Enforcement

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Luxury Limousine Service, Inc.

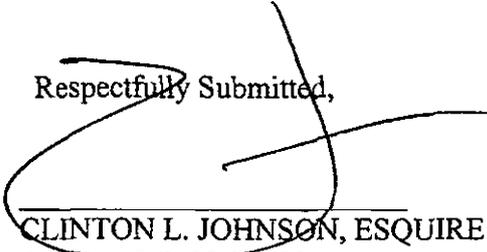
**VERIFICATION**

I, Clinton L. Johnson, Esquire, am the Attorney for Respondent in the above captioned matter.

I verify that the statements made in the MOTION FOR RECONSIDERATION AND STAY OF THE ORDER ENTERED FEBRUARY 9, 2018 are true and correct to the best of my knowledge, information and belief.

I understand that the statements made herein are made subject to the penalties of 18 Pa C.S.A. Section 4904, relating to unsworn falsification to authorities.

Respectfully Submitted,

  
CLINTON L. JOHNSON, ESQUIRE  
Attorney I.D. No. 27996  
1010 West 7th Street  
Chester, Pennsylvania 19013  
Telephone: (610) 874-1977

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PENNSYLVANIA  
PUBLIC UTILITY COMMISSION  
Harrisburg, PA 17105-3265

\$ 1000.34  
Paid 3-16-18.

Public Meeting held February 8, 2018

Commissioners Present:

Gladys M. Brown, Chairman  
Andrew G. Place, Vice Chairman  
Norman J. Kennard  
David W. Sweet  
John F. Coleman, Jr.

Pennsylvania Public Utility Commission,  
Bureau of Investigation and Enforcement

C-2016-2549574

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OPINION AND ORDER

BY THE COMMISSION:

Before the Pennsylvania Public Utility Commission (Commission) for consideration and disposition is the Motion for Default Judgment (Motion), filed by the Commission's Bureau of Investigation and Enforcement (I&E) on August 29, 2016, relative to the above-captioned proceeding. No Answer to the Motion has been filed. For the reasons stated below, we shall grant the Motion.

EXHIBIT "A"

## Procedural History

Luxury Limousine Service, Inc. (Respondent) was issued a Certificate of Public Convenience (Certificate) on April 6, 2000, at Docket No. A-00115605, for group and party 16 or greater authority and limousine authority.

On June 6, 2016, I&E filed the above-captioned Complaint. The Complaint was served on the Respondent by certified mail on June 9, 2016. A copy of proof of delivery of the Complaint is attached to the Motion.

In the Complaint, I&E alleged that the Respondent violated Section 510(c) of the Code, 66 Pa. C.S. § 510(c), by failing to pay the Commission's assessment for fiscal year July 1, 2015 to June 30, 2016. The total outstanding assessment balance is \$1,091. I&E recommended a civil penalty of \$273 for this violation.<sup>1</sup> Complaint at 5.

I&E requested that the Respondent be ordered to pay a total of \$1,364, consisting of the outstanding assessment balance of \$1,091 and a civil penalty of \$273 for the alleged violation. I&E also requested that if the Respondent did not pay the civil penalty and the assessment, the Commission issue an Order cancelling the Respondent's Certificate. *Id.* at 6.

A Notice was attached to the Complaint and informed the Respondent that it must file an Answer within twenty days of the date of service of the Complaint. The Notice also informed the Respondent that if it failed to answer the Complaint, I&E would

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<sup>1</sup> I&E's recommended \$273 civil penalty is approximately 25% of the \$1,091 outstanding assessment amount due for the 2015-2016 fiscal year. I&E based the civil penalty, in part, on the Respondent's history of noncompliance with the Code involving a failure to timely pay assessments.

request that the Commission issue an Order imposing the penalty set forth in the Complaint.

On July 7, 2016, the Respondent made a payment of \$363.66 toward the outstanding assessment for the 2015-2016 Fiscal Year, leaving an outstanding assessment balance of \$727.34.

As stated above, I&E filed its Motion on August 29, 2016. No Answer to the Motion has been filed.

### Discussion

We note that any issue that we do not specifically address herein has been duly considered and will be denied without further discussion. It is well settled that we are not required to consider expressly or at length each contention or argument raised by the parties. *Consolidated Rail Corp. v. Pa. PUC*, 625 A.2d 741 (Pa. Cmwlth. 1993); also see generally *University of Pennsylvania v. Pa. PUC*, 485 A.2d 1217 (Pa. Cmwlth. 1984).

In its Motion, I&E states that the twenty-day time frame for filing an Answer to the Complaint has expired and the Respondent did not file an Answer. I&E also states that the Respondent did not pay its total outstanding assessment balance of \$1,091, and the civil penalty of \$273, that was requested in the Complaint. The Respondent did make a payment of \$363.66 on July 7, 2016, applied toward the outstanding assessment for the 2015-2016 Fiscal Year. After this payment, there remains an outstanding assessment balance of \$727.34 for the 2015-2016 Fiscal Year, and the civil penalty of \$273. Motion at 2. Accordingly, I&E requests that the Commission enter a Default Order against the Respondent that: (1) directs the Respondent to pay its outstanding assessment and civil penalty within thirty days of the entry date of this

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Opinion and Order, and (2) directs the Bureau of Technical Utility Services to cancel the Respondent's Certificate if the past-due assessments and civil penalty are not timely paid. *Id* at 2.

In reviewing the instant Motion, we put the Respondent on notice that we will not hesitate to invoke our authority under the Code to ensure timely compliance with our Regulations and Orders, including the ordering of such other remedies that we may deem appropriate. 66 Pa. C.S. §§ 504, 505, 506, 3301, and 3302.

Public utilities regulated by this Commission are required under Section 510 of the Code to file and pay an assessment that provides a reasonable share of the Commission's costs in administering regulatory oversight. Pursuant to Section 3301 of the Code, 66 Pa. C.S. § 3301, we are authorized to impose civil penalties up to \$1,000 per violation on utilities that fail to file or pay their annual assessments on time.

Through the years, the civil penalties in Motion for Default Judgment cases have been calculated in various ways. Notwithstanding our past practice, we believe that on a going-forward basis, it is prudent to ensure a fair, reasonable, and consistent approach to the levying of civil penalties in these cases, and we will use this approach in the matter before us today. We have arrived at the civil penalties set forth herein based on consideration of the Respondent's yearly assessment amount and the Respondent's compliance history.

We note that the Respondent's compliance history and the need to deter future violations are important considerations when weighing the amount of a civil penalty. 52 Pa. Code § 69.1201. We believe that it is reasonable to review Commission records for a period of three years prior to the date of the filing of the Complaint in this case and up to and including the date of Commission action in this matter to determine whether a particular company has a satisfactory compliance record. In reviewing

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Commission records to determine whether transportation entities have complied with applicable statutes, regulations and orders, we will evaluate violations including, but not limited to, the following: our assessment requirements in 66 Pa. C.S. § 510; the unauthorized provision of service under 66 Pa. C.S. §§ 1101 and 1102; our insurance requirements in 52 Pa. Code, Ch. 32; our tariff requirements in 52 Pa. Code, Chs. 23, 29, and 31; and our vehicle, service, and driver requirements in 52 Pa. Code, Ch. 29.

Our review of the aforementioned Commission records during the review period shows that the Respondent has had an unacceptable history of compliance with Commission statutes and regulations. The Respondent has failed to timely pay the Commission's assessments since 2015. Considering this, we acknowledge that the \$273 civil penalty imposed for the Respondent's failure to pay its outstanding assessment amount is reasonable, as we anticipate that this level of penalty will provide a sufficient deterrent against future violations by the Respondent.

Accordingly, based on our review of the record and the averments in I&E's Motion, we shall grant the Motion. Pursuant to Section 5.61(c) of our Regulations, 52 Pa. Code § 5.61(c), a Respondent who fails to file an Answer within the twenty-day response period may be deemed in default, and the relevant facts stated in the Complaint may be deemed admitted. The Commonwealth Court has upheld our authority to sustain complaints that are not answered within twenty days. *See Fusaro v. Pa. PUC*, 382 A.2d 794, 797 (Pa. Cmwlth. 1978). The Respondent was provided with adequate notice of the alleged violations against it and had the opportunity to respond and to request a hearing. The Respondent was also clearly advised that if it did not file an Answer within twenty days, then I&E would request that we issue an Order imposing the penalties set forth in the Complaint. Under the circumstances in this case, we find that it is appropriate to sustain the Complaint.

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6. That, if Luxury Limousine Service, Inc. fails to make the payment required by Ordering Paragraph No. 3, above, within thirty (30) days of the entry date of this Opinion and Order, it is further ordered:

- a. That the Bureau of Technical Utility Services shall cancel the Certificate of Public Convenience held by Luxury Limousine Service, Inc., at Docket No. A-00115605, without further action by this Commission;
  - b. That the Bureau of Administrative Services, Assessment Section, shall refer this matter to the Pennsylvania Office of Attorney General for appropriate action;
  - c. That a copy of this Opinion and Order shall be served upon the Pennsylvania Department of Transportation, pursuant to Chapter 13 of the Vehicle Code, 75 Pa. C.S. §§ 1301-1379, and the Commission will request that the Pennsylvania Department of Transportation put an administrative hold on Luxury Limousine Service, Inc.'s vehicle registrations. Luxury Limousine Service, Inc. will not be able to register any new vehicles or renew any existing vehicle registrations until all past due assessments are paid, all past due fines are paid, all insurance filings are up to date, and it holds an active Certificate of Public Convenience issued by this Commission; and
  - d. That all parties are hereby placed on notice of the Commission's intent to consider pursuing all remedies, provided by law, including criminal prosecution as well as the
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initiation of an enforcement proceeding in the  
Commonwealth Court, pursuant to Pa. R.A.P. Rule 3761.

7. That upon receipt of the payment of \$1,000.34 by, Luxury  
Limousine Service, Inc. as directed by Ordering Paragraph No. 3 above, this proceeding  
be marked closed.

**BY THE COMMISSION,**



Rosemary Chiavetta  
Secretary

(SEAL)

ORDER ADOPTED: February 8, 2018

ORDER ENTERED: February 9, 2018

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# CUSTOMER'S RECEIPT

SEE BACK OF THIS RECEIPT  
FOR IMPORTANT CLAIM  
INFORMATION

Pay to  
Address

*PUC*  
2100 NORTH STREET  
HARRISBURG

KEEP THIS  
RECEIPT FOR  
YOUR RECORDS

NOT  
NEGOTIABLE

Serial Number  
**19572339857**

Year, Month, Day 2018-03-16 Post Office 193170 Amount \$500.34 Clerk 01



# CUSTOMER'S RECEIPT

SEE BACK OF THIS RECEIPT  
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INFORMATION

Pay to  
Address

*PUC*  
2100 NORTH STREET  
HARRISBURG

KEEP THIS  
RECEIPT FOR  
YOUR RECORDS

NOT  
NEGOTIABLE

Serial Number  
**19572339846**

Year, Month, Day 2018-03-16 Post Office 193170 Amount \$500.00 Clerk 01

EXHIBIT "B"

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

IN REPLY PLEASE  
REFER TO OUR FILE

March 16, 2018

C-2016-2549574  
A-00115605, Fs. 2 and 3

LUXURY LIMOUSINE SERVICE INC  
1200 CROSBY STREET  
CHESTER PA 19012

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Bureau of Investigation and Enforcement  
v.  
Luxury Limousine Service, Inc.

To Whom It May Concern:

In the Order entered February 8, 2018 the Motion for Default Judgment filed by the Commission's Bureau of Investigation and Enforcement on August 29, 2016, was granted. The Order stated that, if the outstanding assessment balance of \$727.34 for the 2015-2016 Fiscal Year, and the civil penalty of \$273 were not paid within thirty days of the entry date of the Order, the Certificate of Public Convenience held by Institute for the Development of Luxury Limousine Service, Inc., at Application Docket No. A-00115605, Folders 2 and 3, would be cancelled without further action by this Commission.

To date, more than thirty days later, no payment has been received from the respondent; therefore, the Certificate of Public Convenience held by Luxury Limousine Service, Inc., at Application Docket No. A-00115605, Folders 2 and 3 is cancelled.

Very truly yours,

Rosemary Chiavetta  
Secretary

EXHIBIT "C"

**PENNSYLVANIA  
PUBLIC UTILITY COMMISSION  
Harrisburg, PA 17105-3265**

Pennsylvania Public Utility Commission,  
Bureau of Investigation and Enforcement

C-2016-2549574

vs.

Luxury Limousine Service, Inc.

**CERTIFICATE OF SERVICE**

Clinton L. Johnson, Esquire, Attorney for the Respondent do hereby certify that on this day I did mail via U.S. Mail, 1<sup>st</sup> Class, Postage Prepaid a copy of the forgoing "MOTION FOR RECONSIDERATION AND STAY OF THE ORDER ENTERED FEBRUARY 9, 2018" to the Commonwealth of Pennsylvania Public Utility Commission Respondent at the addresses below:

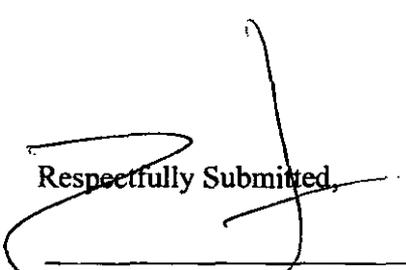
Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
P.O. Box 3265 Harrisburg, PA 17105-3265

Gladys M. Brown, Chairman  
Pennsylvania Public Utility Commission  
P.O. Box 3265 Harrisburg, PA 17105-3265

Andrew G. Place, Vice Chairman  
Pennsylvania Public Utility Commission  
P.O. Box 3265 Harrisburg, PA 17105-3265

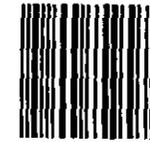
Rob Bigamon  
Pennsylvania Public Utility Commission  
P.O. Box 3265 Harrisburg, PA 17105-3265

Respectfully Submitted,

  
CLINTON L. JOHNSON, ESQUIRE  
Attorney I.D. 27996  
1010 West 7th Street  
Chester, Pennsylvania 19013  
Telephone: (610) 874-1977



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19084  
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Law Offices of  
CLINTON L. JOHNSON, ESQUIRE  
1010 W. 7th Street Chester, PA 19013

**FIRST CLASS**

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



**Certificate of Mailing**

This Certificate of Mailing provides evidence that mail has been presented to USPS for mailing. This form may be used for domestic and international mail.

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1010 W 7th St  
Chester PA 19013

To: Loraine Amundson  
PO Box 3265  
Home Run PA 19013

PS Form 3847, April 2007 PSN 7530-02-000-9066

U.S. POSTAGE  
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SPRINGFIELD, PA  
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