



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

September 26, 2019

VIA ELECTRONIC FILING

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
400 North Street
Harrisburg, PA 17120

Re: Pennsylvania Public Utility Commission, Bureau of Investigation
and Enforcement v. Pocono Cab Company LLC
Docket No. C-2019-3009656
(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 Pocono Cab Company 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,

A handwritten signature in black ink, appearing to read "K. Myers", written in a cursive style.

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-2019-3009656
	:	
Pocono Cab Company 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 attorney, and replies to the New Matter of Pocono Cab Company LLC (“Pocono Cab” or “Respondent”), pursuant to 52 Pa. Code § 5.63(a). In support thereof, I&E avers as follows:

I. BACKGROUND

On February 26, 2019 at approximately 1:30 AM, a police officer with the Stroud Area Regional Police Department stopped Anthony Maksymo, a driver of Pocono Cab, for traffic offenses at McConnell Street and North Third Street in Stroudsburg, Pennsylvania. The driver was operating a 2010 Dodge station wagon bearing Pennsylvania license plate number TX49418 and vehicle identification number 2D4RN1AEXAR223004, which is registered to and owned by Respondent. Mr. Maksymo was subsequently arrested by the police and submitted to chemical testing, which detected cannabinoids in Mr. Maksymo’s system.

Subsequent to Mr. Maksymo's arrest, PUC Motor Carrier Enforcement Officer Robert Maholik reviewed Pocono Cab's log sheets dated February 26, 2019, which demonstrated that Mr. Maksymo provided passenger transportation service on behalf of Respondent until 10:50 PM that night.

Accordingly, on August 27, 2019, I&E filed a Complaint against Respondent at Docket No. C-2019-3009656, alleging that Respondent violated Section 29.407 of the Commission's regulations, 52 Pa. Code § 29.407, for permitting a driver to operate a vehicle while under the influence of a controlled substance. I&E seeks payment of a civil penalty in the amount of \$500.

On September 12, 2019, Pocono Cab filed its Answer with New Matter at the above docket.

II. REPLY TO NEW MATTER

6. Admitted in part. Denied in part. It is only admitted that I&E's Complaint does not allege that the incident in question resulted in the conviction of the driver. The remaining averment in this Paragraph is a conclusion of law to which no response is required. To the extent a response is required, the averment is 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.

8. Denied. This averment sets forth a legal conclusion to which no response is required. To the extent a response is required, the averment is denied. By way of further answer, the toxicology report speaks for itself.

9. Denied. This averment sets forth a legal conclusion to which no response is required. To the extent a response is required, the averment is denied.

10. Denied. This averment sets forth a legal conclusion to which no response is required. To the extent a response is required, the averment is denied.

11. 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.

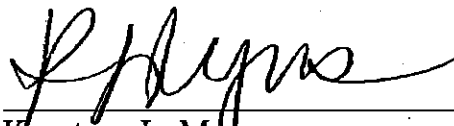
12. Admitted. It is admitted that the driver, Anthony Maksymo, was not transporting a passenger at the time he was pulled over by police for committing traffic offenses.

13. 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.

14. 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.

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, and direct Respondent to immediately pay I&E's requested civil penalty of \$500.

Respectfully submitted,



Kourtney L. Myers
Prosecutor
PA Attorney ID No. 316494

Bureau of Investigation & Enforcement
Pennsylvania Public Utility Commission
400 North Street
Harrisburg, PA 17120
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komyers@pa.gov

Date: September 26, 2019

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

v.

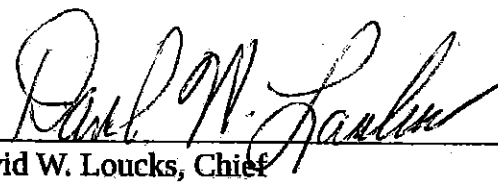
Pocono Cab Company LLC,
Respondent

Docket No. C-2019-3009656

VERIFICATION

I, David W. Loucks, Chief of Enforcement, Bureau of Investigation and Enforcement, Motor Carrier Enforcement, 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 of Investigation and Enforcement 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: September 26, 2019



David W. Loucks, Chief
Motor Carrier Enforcement
Bureau of Investigation and Enforcement
Pennsylvania Public Utility Commission
400 North Street
Harrisburg, PA 17120

