

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission	:	
Bureau of Investigation & Enforcement	:	
	:	
v.	:	C-2019-3012562
	:	
Pasha Luxury Services, Inc. t/a	:	
The Corporate Sedan Service	:	

**INITIAL DECISION**

Before  
Darlene Davis Heep  
Administrative Law Judge

**INTRODUCTION**

The Commission’s Bureau of Investigation and Enforcement (BIE) filed a Complaint against Pasha Luxury Services, Inc. t/a The Corporate Sedan Service, for violations of 66 Pa. C.S. § 510(b) by failing to submit its 2016 assessment form and Section 510(c) by failing to pay its 2017-2018 Fiscal Assessment. On the morning of the hearing, Respondent advised that it would not appear at the hearing, which it did not. This decision orders the Respondent to pay \$28,728, consisting of the past due assessment of \$22,182 plus a civil penalty totaling \$6,546.

**HISTORY OF THE PROCEEDING**

On or about October 25, 2001, the Pennsylvania Public Utility Commission (Commission) issued Respondent Pasha Luxury Services, Inc. t/a The Corporate Sedan Service a Certificate of Public Convenience at Docket Number A-00117967 for the authority to operate a limousine service.

On August 29, 2019, BIE filed this action alleging that Respondent failed to pay its 2017-2018 Fiscal Assessment in the amount of \$22,182. In Count 1 of the Complaint, BIE avers that the Respondent failed to report its gross intrastate operating revenues for the 2016 calendar year in that it did not file an assessment report for that year and seeks a \$1,000 civil penalty for violation of Section 501(b). In Count 2, BIE avers that the Respondent failed to satisfy its 2017-2018 Fiscal Year Assessment within 30 days of receipt of the invoice in violation of Section 501(c) and is seeking a civil penalty of 25% of the outstanding balance, or \$5546. BIE is the prosecutory arm of the Commission.

On September 20, 2019, the Respondent filed an Answer denying all material allegations. The Respondent averred that the amount owed as stated in the Complaint was an estimate and did not reflect work done by the Respondent. The Respondent further averred that if an assessment report was filed, it would have been inaccurate. Respondent also asserts in the Answer that the penalty proposed by BIE is in excess of that allowed under the statute.

On January 12, 2021, this matter was assigned to the Office of Administrative Law Judge. On January 14, 2021, a Telephonic Hearing Notice was issued setting a hearing before the undersigned on March 3, 2021. A Prehearing Order was issued on January 19, 2021, setting forth the procedures for the hearing and reminding the parties of the hearing date.

On March 3, 2021, at 5:30 a.m., counsel for the Respondent sent an email to the Commission advising that the Respondent had decided not to further challenge the assessment action and would not appear at the hearing set for March 3, 2021. Counsel further stated that his client did not wish for him to appear for the hearing and that BIE proceed unopposed.

The hearing convened as scheduled on March 3, 2021, at 10:00 a.m. BIE was represented by Kourtney Myers, Esquire. Also present for BIE was Christopher Andreoli, Esquire. BIE presented one witnesses, Amy Zuvich, Chief of Finance and Assessments in the Commission's Bureau of Finance and Assessments, and the following exhibits:

- 1 (Instructions for Preparing 2016 Assessment Report for Motor Carriers and a blank 2016 Assessment Report)
- 2 (Pasha Luxury's General Assessment Invoice for Fiscal Year July 1, 2017, to June 30, 2018)
- 3 (Notice of Assessment for Fiscal Year July 1, 2017 to June 30, 2018)
- 4 (Electronic Signature of Pasha Luxury indicating receipt of General Assessment Invoice for Fiscal Year July 1, 2017 to June 30, 2018 and the Notice of Assessment for Fiscal Year July 1, 2017 to June 30, 2018)
- 5 (November 8, 2017 Dunning Letter from the Commission's Fiscal Office)
- 6A (Formal Complaint filed by BIE against Pasha Luxury on July 26, 2016, C-2016-2558533)
- 6B (Certificate of Satisfaction filed by BIE on July 5, 2017, C-2016-2558533)
- 7A (Formal Complaint filed by BIE against Pasha Luxury on December 13, 2017, C-2017-2638061)
- 7B (Certificate of Satisfaction filed by BIE on April 3, 2019, C-2017-2638061)

The record closed on March 19, 2021, upon receipt of the transcript.

#### FINDINGS OF FACT

1. Complainant, the Bureau of Investigation and Enforcement (BIE), is the prosecutory arm of the Commission.
2. Respondent, Pasha Luxury Services, Inc. t/a The Corporate Sedan Service, is a limousine service with the authority to operate under a Certificate of Public Convenience issued by the Pennsylvania Public Utility Commission (Commission) on or about October 25, 2001, Docket Number A-00117967.
3. To determine the amount of the assessment of a utility, the fiscal office of the Commission mails a blank assessment report form to the utility. (Tr. 9).

4. A utility reports its calendar year revenue to the Commission on an assessment report. (Tr. 12).

5. The revenue that is reported on the assessment report is used by the Commission to calculate a utility's overall assessment factor and the amount the utility is billed by the Commission for the following fiscal year's assessment. (Tr. 12).

6. The utility is sent a copy of the assessment along with a notice of assessment by certified mail to the address provided by the utility. (Tr. 17, 18).

7. The notice of assessment explains how the assessment was calculated and provides procedures to file an objection and a timeline for paying the assessment. (Tr. 18; BIE Exhibit 3).

8. When a utility fails to file an assessment report, the Commission estimates the revenue of the utility and then issues an invoice based on the estimated revenue. (Tr. 12).

9. When a utility does not provide its revenue for a given year, the Commission determines estimated revenue by applying a ten percent increase to the prior year's revenue. (Tr.13).

10. On February 21, 2017, a blank assessment form for the 2016 calendar year was mailed to Respondent Pasha Luxury. (BIE Exhibit 1; Tr. 10).

11. The blank assessment report was sent to the address that the Respondent provided to the Commission (Tr. 10).

12. March 13, 2017 was the deadline for the Respondent to file the 2016 assessment report. (Tr. 12).

13. The Respondent did not file an assessment report for the 2016 calendar year. (Tr. 12).

14. The Commission estimated the revenue of the Respondent for calendar year 2016 as \$1,470,150. (Tr. 12-13; BIE Exhibit 1).

15. The fiscal year assessment for the 2015 calendar year was used by the Commission to estimate the Respondent's 2016 revenue and to determine the 2017-2018 fiscal year assessment. (Tr. 14).

16. The Respondent's 2015 revenue was estimated because the Respondent failed to submit an assessment report for 2015. (Tr. 13).

17. The amount that the Respondent was assessed for the 2017 to 2018 fiscal year was \$22,182. (Tr. 16).

18. On September 5, 2017, the Commission sent an invoice for \$22,182 to the Respondent for the 2017 to 2018 fiscal year assessment. (Tr. 15; BIE Exhibit 2).

19. The fiscal year 2017-2018 assessment invoice for \$22,182 and notice of assessment were sent by the Commission to the address provided to the Commission by the Respondent. (Tr. 16; BIE Exhibits 2, 3).

20. The Respondent did not file an objection to the 2017-2018 assessment. (Tr. 18).

21. The Respondent received the 2017-2018 fiscal year assessment invoice and notice of assessment on September 7, 2017. (Tr. 19, 21; BIE Exhibit 4).

22. The Respondent has not paid the 2017-2018 fiscal year assessment. (Tr. 22).

23. A “dunning notice”, or warning letter, regarding the outstanding assessment balance for the 2017-2018 fiscal year was sent to the Respondent on November 8, 2017. (Tr. 28-29; BIE Exhibit 5).

24. The Respondent has not paid the 2017-2018 fiscal year assessment. (Tr. 22).

25. The Respondent has failed to timely file and pay assessments for the 2018-2019, 2019-2020 and 2020-2021 fiscal years. (Tr. 26; BIE Exhibits 6A, 6B, 7A, 7B).

### DISCUSSION

The Complainant is the Commission’s Bureau of Investigation and Enforcement, which was established by statute to prosecute complainants against public utilities pursuant to 66 Pa.C.S. § 308.2(a)(11). Respondent transports passengers in the Commonwealth of Pennsylvania for compensation. It is a “public utility” as defined by 66 Pa. C.S. § 102. On October 25, 2001, at Docket Number A-00117967, the Commission issued Respondent a Certificate of Public Convenience to operate a limousine service.

In a case involving an alleged violation of a determination or order of the Commission by a public utility, the burden of proof shall be upon the public utility to show that it has complied with the determination or order of the Commission. 66 Pa.C.S. § 315(b). As a recipient of a Commission-issued certificate of public convenience, Respondent has a duty to comply with Commission orders and regulations. 66 Pa.C.S. § 501(c).

Public utilities regulated by the 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, the Commission is authorized to impose civil penalties up to \$ 1,000 per violation on utilities that fail to file or pay their annual assessment on time.

As the Commission explained in its tentative Order at *Cancellation of Certificates of Public Convenience for Motor Carriers; Failure to Assessment*, Docket Number M-2020-3021634 (September 17, 2020):

The Public Utility Code requires that by March 31 each year, every public utility must file a report detailing its gross intrastate operating revenue for the preceding assessment calendar year. 66 Pa. C.S. § 510(b). This report is essential for the Commission to fund its operations and to properly allocate assessment costs among the regulated utility community. *Id.*

For each fiscal year, the Commission determines the total assessment for regulatory expenses, which is allocated to, and paid by, public utilities pursuant to the methodology set forth in the Public Utility Code. 66 Pa.C.S. §§ 510(a), (b). The Commission provides notice of the amount lawfully assessed against a utility and requires the utility to pay that amount within thirty (30) days of receipt of the notice. 66 Pa.C.S. § 510(c). The Public Utility Code authorizes the Commission to revoke a utility's Certificate of Public Convenience (CPC) for failure to pay the assessment within the time prescribed. *Id.*

*Id.* at 1.

The Respondent filed an Answer but chose not to participate in the hearing. The evidence presented by BIE supports finding that the Respondent violated Sections 510(b) and (c) and that a penalty under Section 3301 is appropriate.

The Respondent failed to file an assessment report for the 2016 calendar year and failed to pay its assessment for the 2017-2018 fiscal year assessment. On February 21, 2017, a blank assessment form for the 2016 calendar year that is used to determine its 2017-2018 fiscal year assessment was mailed to the Respondent. FOF 8. The Respondent had until March 13, 2017, to submit the assessment form. FOF 10. When the Respondent did not submit its assessment, the amount due was estimated by adding ten percent to the previous year's assessment. FOF 7, 12.

An invoice for the estimated amount of the assessment, \$22,182, was mailed to the Respondent on September 5, 2017. FOF 13, 15, 16, 17. The Respondent did not pay the assessment and a “dunning”, or warning, letter was sent to the Respondent. The Respondent did not file an objection to the assessment and has not paid the 2017-2018 assessment amount. FOF 22.

The record establishes that the Respondent has violated Section 510(b) of the Code by failing to file an assessment report for the 2016 calendar year. The record also establishes that the Respondent has violated Section 510(c) by failing to timely pay its 2017-2018 Fiscal Year Assessment.

Section 3301 of the Public Utility Code, 66 Pa. C.S. § 3301, authorizes the Commission to impose civil penalties on any public utility up to \$1,000 per violation for the failure to file or pay the annual assessment on time. Each and every day of continuance of the violation is a separate offense. 66 Pa. C.S. § 3301(b).

Factors and standards to be utilized when determining whether a fine for violating a Commission order, regulation or statute is appropriate are set forth in 52 Pa. Code § 69.1201. Of these factors, in cases involving assessment related violations, the Commission has determined that a Respondent's compliance history for the previous three-year period, and the need to deter future violations, are important considerations when weighing the amount of a civil penalty. 52 Pa. Code §§ 69.1201(c)(6), (8), and (9). *See Pa. Pub. Util. Comm'n v. Lehigh Valley Transp. Servs. Inc.*, Docket Number C-2019-301654 (Order entered October 8, 2020).

The Respondent has a history and practice of noncompliance with filing and paying assessments. The Respondent has failed to pay assessments for the 2018-2019, 2019-2020 and 2020-2021 fiscal years. FOF 23. In 2015 and 2016 fiscal and calendar years, the Respondent did not file its assessment information or timely pay its assessment until complaints were filed and a settlement was reached with BIE. The Respondent agreed to pay the assessments only after the Complaints were filed. *See* BIE Exhibits 6A, 6B, 7A and 7B.

BIE is seeking a fine of \$1,000 for the Respondent's failure to file an assessment for 2016 in violation of 501(b). BIE is also seeking a fine of \$5,546, or 25% of the outstanding assessment of \$22,182, for failing to timely pay its fiscal year 2017-2018 assessment in violation of Section 501(c).

The Commission has fined utilities for failure to comply with assessment filing requirements. *See Pa. Pub. Util. Comm'n v. Juan Genet Enter., LLC t/a Safe Destinations*, Docket No. C-2014-2450660 (Order entered August 3, 2017); *Pa. Pub. Util. Comm'n v. Leo Moyers & Storage Inc.*, Docket No. C-2015-2494528 (Order entered August 3, 2017); *Pa. Pub. Util. Comm'n v. Hoffman Landscaping & Trucking, LLP*, Docket No. C-201502498095 (Order entered October 26, 2017); *Pa. Pub. Util. Comm'n v. Reach for the Stars Limousine Serv. Inc.*, Docket No. C-2015-2499276 (Order entered October 26, 2017).

The fines issued in the above cases were under \$1,000. However, a higher fine is appropriate here because of the Respondent's history of noncompliance. The Commission has issued higher fines, 25% of the total outstanding, when the utility has an "unacceptable" compliance history. *See Pa Pub. Util. Comm'n v. Celebrity Limousine Services, Inc.*, Docket Number C-2019-3012560 (Order entered August 6, 2020) (\$5,024 fine); *Pa Pub. Util. Comm'n v. Norstan Network Servs., Inc. t/a Netwolves Network Servs., LLC*, Docket Number C-2019-3007252 (Order entered July 16, 2020) (\$6,698 fine). The fines here should serve to deter future violations.

This decision will order payment of a fine of \$1,000 for the Section 510(b) violation plus \$5,546 for the Section 510(c) violation in addition to payment of the outstanding assessment of \$22,182, for a total of \$28,728. If the Respondent does not make payment of the outstanding assessment and the imposed civil penalty within thirty days of the date of entry of a Final Order, the Respondent's Certificate to operate will be revoked, the matter sent for collection and the Commission will pursue all remedies, provided by law, to ensure timely compliance with the Code, Commission Regulations and Orders, including initiation of further enforcement proceedings. 66 Pa. C.S. §§ 504, 505, 506, 3301, and 3302; Pa. R.A.P. Rule 3761.

## CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the parties and the subject matter of this proceeding. 66 Pa.C.S. §§ 501(b), 701.
2. The Commission has the power, and the duty, to enforce the requirements of the Public Utility Code. 66 Pa.C.S. § 501(a).
3. In a case involving an alleged violation of a determination or order of the Commission by a public utility, the burden of proof shall be upon the public utility to show that it has complied with the determination or order of the Commission. 66 Pa.C.S. § 315(b).
4. As the holder of a Commission-issued certificate of public convenience, Respondent has a duty to comply with Commission orders and regulations. 66 Pa.C.S. § 501(c).
5. The Respondent's failure to submit the 2016 assessment is a violation of 66 Pa.C.S. § 510(b).
6. A public utility is required to pay the Commission's assessment invoices within thirty days of having received notice from the Commission of the amounts assessed or challenge its assessment within fifteen days after receiving notice of the assessment. 66 Pa.C.S. § 510(c).
7. Respondent's failure to pay the 2017-2018 annual assessment is a violation of 66 Pa.C.S. § 510(c).
8. If any regulated entity 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.

9. The Respondent's history of noncompliance for the previous three-year period, and the need to deter future violations, support imposing a significant civil penalty. 52 Pa. Code §§ 69.1201(c)(6), (8), and (9). *See Pa. Pub. Util. Comm'n v. Lehigh Valley Transp. Servs. Inc.*, Docket Number C-2019-301654 (Order entered October 8, 2020).

10. In cases involving assessment related violations, the Respondent's compliance history for the previous three-year period and the need to deter future violations are important considerations when weighing the amount of a civil penalty. 52 Pa. Code § 69.1201. *Pa. Pub. Util. Comm'n v. Lehigh Valley Transp. Servs. Inc.*, Docket Number C-2019-301654 (Order entered October 8, 2020).

11. A civil penalty in the amount of \$1,000 for violation of 66 Pa.C.S. § 510(b) plus \$5,546 for violation of 66 Pa.C.S. § 510(c), totaling \$6,546, is reasonable and appropriate. *Pa. Pub. Util. Comm'n v. W. Side Servs., Inc.*, Docket No. C-2015-2494535 (Order entered August 3, 2017).

### ORDER

THEREFORE,

IT IS ORDERED:

1. That the Complaint filed by the Commission's Bureau of Investigation and Enforcement against Pasha Luxury Services, Inc. t/a The Corporate Sedan Service at Docket No. C-2019-3012562 is sustained.

2. That within thirty (30) days of the entry date of the Commission's final order in this matter, Pasha Luxury Services, Inc. t/a The Corporate Sedan Service, shall remit \$28,728 payable to the "Commonwealth of Pennsylvania" by check, money order, or certified funds, to:

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

3. That if Pasha Luxury Services, Inc. t/a The Corporate Sedan Service, fails to make the payment required by Ordering Paragraph No. 3 above within thirty (30) days of the entry date of the Commission's final order in this matter:

a. The Certificate of Public Convenience held by Pasha Luxury Services, Inc. t/a The Corporate Sedan Service, shall be cancelled without further action by this Commission;

b. The Bureau of Administrative Services, Assessment Section, shall refer this matter to the Pennsylvania Office of Attorney General for appropriate action; and

c. 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 Pasha Luxury Services, Inc. t/a The Corporate Sedan Service vehicle registrations. Pasha Luxury Services, Inc. t/a The Corporate Sedan Service, 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.

4. That after Pasha Luxury Services, Inc. t/a The Corporate Sedan Service, remits \$28,728 as required by Ordering Paragraph No. 3, the Secretary's Bureau shall mark this proceeding closed.

Date: June 1, 2021

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/s/  
Darlene Davis Heep  
Administrative Law Judge