

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

Public Meeting held May 18, 2023

Commissioners Present:

Gladys Brown Dutrieuille, Chairman  
Stephen M. DeFrank, Vice Chairman  
Ralph V. Yanora  
Kathryn L. Zerfuss  
John F. Coleman, Jr

Pennsylvania Public Utility Commission,  
Bureau of Investigation and Enforcement

C-2022-3035957

v.

Gary C. Walk Jr. t/a Walk's Moving

**OPINION AND ORDER**

**BY THE COMMISSION:**

Before the Pennsylvania Public Utility Commission (Commission) for consideration and disposition is the Petition for Reconsideration from Staff Action (*Petition for Reconsideration*) filed by Gary C. Walk Jr. t/a Walk's Moving (Petitioner or Walk's Moving) on February 1, 2023. The *Petition for Reconsideration* was filed in response to the Motor Carrier Enforcement Division of the Commission's Bureau of Investigation and Enforcement (I&E or Staff) imposition of penalties in the amount of \$1,250 on the Petitioner for violation of the Public Utility Code (Code) and the Pennsylvania Statute *via* Secretarial Letter entered on January 25, 2023 (*Staff Action*

*Secretarial Letter*). For the reasons set forth herein, we will deny the *Petition for Reconsideration*, consistent with this Opinion and Order.

### **History of Proceeding**

On February 20, 2014, the Commission granted Gary C. Walk Jr. t/a Walk's Moving, a household goods carrier, a Certificate of Public Convenience in the Commonwealth at Docket Number A-2013-2375308, pursuant to the provisions of the Code.

On December 8, 2022, I&E filed a Complaint against Walk's Moving for various violations of the Statute pursuant to 66 Pa. C.S. §1303 and our Regulations at 52 Pa. Code § 31.27 (for failure to adhere to tariff rates and charges), § 31.121(c) (for failing to provide an Information for Shippers form within 48 hours before the move), § 31.122(a) (for failing to provide an estimated cost of services) and § 31.132(b) (for failing to provide a bill of lading). The alleged violations occurred during a household goods move performed by the Petitioner on August 30, 2022.<sup>1</sup>

The Complaint was served on the Petitioner on December 8, 2022, by certified mail.

In accordance with Section 5.61 of our Regulations, 52 Pa. Code §5.61, I&E notified the Petitioner that an Answer to the Complaint must be filed within twenty days of the date of service. The Notice, which was attached to the Complaint, further

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<sup>1</sup> The Complaint was based on an informal complaint of a customer that was filed with the Commission alleging violations of the Commission's Regulations that occurred during a household goods move performed by the Petitioner on August 30, 2022.

specified that if the Petitioner failed to answer the Complaint within twenty days, I&E would request that the Commission impose the following penalties:

6. That Respondent, by failing to adhere to the tariff rates and charging an amount higher than the amount computed by the Petitioner's tariff, is in violation of 66 Pa. C.S. §1303 and 52 Pa. Code §31.27. The penalty for this violation is \$500.
7. That the Information for Shippers form was not provided by Respondent 48 hours before the move as set forth in 52 Pa Code §31.121(c). The penalty for this violation is \$250.
8. That Respondent, by failing to provide an estimated cost of services, has violated 52 Pa. Code §31.122(a). The penalty for this violation is \$250.
9. That Respondent, by failing to provide a bill of lading, has violated 52 Pa. Code §31.132(b). The penalty for this violation is \$250.

Complaint at 1-2.

Attached to the Complaint was a Notice informing Walk's Moving that, in accordance with 52 Pa. Code § 1.56(a), it must file an Answer to the Complaint with written explanation of circumstances to the Commission regarding the allegations of violation of Commission Regulations within twenty (20) days of the date of service of the Complaint. The Petitioner was also required to raise all factual and legal arguments in its defense in the Answer and mail to:

Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
400 North Street, 2nd Floor  
Harrisburg, PA 17120

Or you may eFile your Answer using the Commission's website at [www.puc.pa.gov](http://www.puc.pa.gov). The link to eFiling is located under the Filing & Resources tab on the homepage. If your Answer is 250 pages or less, you are not required to file a paper copy. If your Answer exceeds 250 pages, you must file a paper copy with the Secretary's Bureau.

Additionally, a copy should either be mailed to:

Pennsylvania Public Utility Commission  
Bureau of Investigation and Enforcement  
400 North Street 2<sup>nd</sup> Floor  
Harrisburg, PA 17020

Or, e-mailed to: [RA-PCCmplntResp@pa.gov](mailto:RA-PCCmplntResp@pa.gov)

*Id.* at 4.

The Petitioner did not answer I&E's Complaint within twenty days of service of the Complaint and the Commission on January 25, 2023, issued the *Staff Action Secretarial Letter*.

The *Staff Action Secretarial Letter* assessed: (1) a fine of \$500 for failure to adhere to the tariff rates and charging an amount higher than the amount computed by the Petitioner's tariff as required at 66 Pa C.S. §1303, 52 Pa. Code § 31.27; (2) a fine in the amount of \$250 for failing to provide Petitioner the Information for Shippers form 48 hours before the move as required by 52 Pa. Code § 31.121(c); (3) a fine of \$ 250 for failure to provide an estimated cost of services in violation of 52 Pa. Code § 31.122(a); and (4) a fine of \$250 for failure to provide a bill of lading in violation of § 31.132(b), for a total fine of \$1,250.

The Petitioner was notified to cease and desist from further violations of the Code, 66 Pa. C.S. §§1.1 *et seq.*, and the Commission Regulations at 52 Pa. Code §§ 1.1 *et seq.*

The *Staff Action Secretarial Letter* provided appeal rights to the Petitioner as follows:

If you disagree with this determination, you may send a Petition for Reconsideration from Staff (Petition) to: Secretary, PA Public Utility Commission, 400 North Street, Harrisburg, PA 17120. Such a Petition is a written statement asking the Commission to change its determination. The Petition MUST include: (1) a written statement (divided into numbered paragraphs) outlining the reasons for the request, (2) the case docket number(s) (they are provided for you at the top right-hand corner of this letter), (3) the name of the person on whose behalf the petition is made, (4) copies of relevant documentation, and (5) a verification with original signature. See 52 Pa. Code §§ 1.31 and 5.44.

**ALL Parties to proceedings pending before the Commission must open and use an e-filing account through the Commission's website, OR you may submit your filing by overnight delivery. If a filing contains confidential or proprietary material, the filing is required to be submitted by overnight delivery.**

The Petitioner was required to file a Petition with the Commission within twenty (20) days of the date of this letter. The *Staff Action Secretarial Letter* also warned the Petitioner that if no timely request for reconsideration is made, the actions that are contemplated in the Secretarial Letter will be deemed to be the final action of the Commission.

In response to the *Staff Action Secretarial Letter*, the Petitioner filed the *Petition for Reconsideration* on February 1, 2023. No response to the Petition has been filed.

## Discussion

Before us is Walk's Moving's *Petition for Reconsideration* of the Staff actions that fined Walk's Moving \$1,250 for various Code violations.

### Legal Standards

We note that we are not required to consider expressly or at length each contention or argument raised in the Petition. *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). Therefore, any issue that we do not specifically address or delineate in this decision shall be deemed to have been duly considered and denied without further discussion.

Section 5.44 of the Commission's Regulations, 52 Pa. Code § 5.44, permits a party to seek the Commission's reconsideration of actions taken by the Commission's staff pursuant to the staff's delegated authority from the Commission.<sup>2</sup>

In pertinent part, Section 5.44 of the Commission's Regulations, 52 Pa. Code § 5.44, provides as follows:

- (a) Actions taken by staff, other than the presiding officer, under authority delegated by the Commission, will be deemed to be the final action of the Commission unless reconsideration is sought from the Commission within 20 days after service of notice of the action . . . .

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<sup>2</sup> To deal efficiently with various routine and non-controversial matters that require the Commission's approval, the Commission has expressly delegated its approval authority to staff regarding certain matters that are deemed to be routine, ministerial and non-policy making in nature. Thus, for specific delegated matters, in lieu of action at public meeting, individual bureaus may exercise the Commission's authority by Secretarial Letter.

- (b) An action taken by staff under delegated authority will note the parties' right to seek reconsideration of the action under this section.
- (c) Petitions for reconsideration from the action of the staff will be addressed by the Commission at public meeting.

52 Pa. Code § 5.44(a)

To warrant reconsideration pursuant to 52 Pa. Code § 5.44(a), a petitioner is required to provide substantial and credible evidence, or a preponderance of evidence, in support of the petition. *Samuel J. Lansberry, Inc. v. Pa. PUC*, 578 A. 2d 600, 602 (Pa. Cmwlth. 1990), *see e.g., Pa. PUC, Bureau of Technical Services v. R. Jean Ryan t/d/b a Scotty Taxi*, Docket Nos. P-2014-2399803 and A-00108919 (Order entered May 22, 2014).

### **Petition for Reconsideration**

The *Petition for Reconsideration* against the imposition of fines consists solely of the following averments of the Petitioner:

On December 26<sup>th</sup> 2022, at 3:33PM, I responded with an email sent to PUC explaining the situation.

On January 25<sup>th</sup> 2023, PUC sent me a letter saying I owed \$1,250.00 due to no response.

This is the reason for my appeal. Please see the attached documents.

Signed

01/30/2023

The Petitioner includes copies of an email the Petitioner sent to [RA-PCCmplntResp@pa.gov](mailto:RA-PCCmplntResp@pa.gov), a one page guidelines for consumer to follow when hiring a moving company with the heading-Moving Company Brochure and a copy of the *Staff Action Secretarial Letter*.

The Petitioner's email attachment stated that:

The customer was in storage for 4½ months but was given a bill of lading/cost of service/information to the shipper as Officer Simmit stated in his complaint. We emailed all three of these papers as none of the above matters. This is a move of property, not household goods as your website states.

## **Disposition**

On review, we conclude that the Petitioner has presented no grounds on which to overturn the conclusions of the *Staff Action Secretarial Letter*; therefore, we shall deny the Petition.

The Petitioner claims that it responded to the Complaint on December 26, 2022, with an email to the PUC explaining the situation. The Complaint Notice specifically stated that the Petitioner must file a written Answer within twenty days of the date of service of the Complaint explaining the circumstances to be considered in determining the outcome and mail it to the Commission's Secretary. Additionally, a copy of the Answer was to be mailed or e-mailed to the Commission's I&E. The Petitioner's response, by opting to only e-mail a reply to I&E does not constitute a proper Answer to the Complaint.

In addition, even if the Petitioner had complied with the procedural rules for filing an Answer to a Complaint, the Petitioner fails to provide an adequate response

to the charges alleged in the I&E Complaint. In the Complaint, I&E had charged the Petitioner for overcharging a customer by not adhering to the carrier's tariff and the fuel charges on file. In response to the I&E Complaint the Petitioner asserted "The customer was in storage for 4½ months... This is a move of property, not household goods..." which fails to refute the allegations of the Complaint. The Petitioner claims that the goods were in storage for 4½ months and thus not considered as household goods. However, this claim is irrelevant to the issues alleged in the Complaint regarding adherence to tariff obligations. Accordingly, we find that the Petitioner fails to assert any basis for granting reconsideration.

The Petitioner also states that the customer was given a bill of lading, estimated cost of service and information to the shippers "as stated by Officer Simmet" in the Complaint. Again, no documents were presented in support of the claim. Upon review, the Complaint stated that Supervisor Ernest Snyder and Enforcement Officer Patrick Simmet spoke to the customer who stated that he did not receive the documents. The Complaint stated that Supervisor Snyder received via email three (3) documents that included an unsigned bill of lading. Again, without providing proof that copies of the bill of lading, estimated cost of service and an Information to Shippers form were provided to the customer at the appropriate time, the Petitioner fails to refute the basis for the Complaint.

Based on our review of the Petition, the record, and the applicable law, we find that the Petitioner has not provided sufficient information to justify exercising our discretion to reconsider the *Staff Action Secretarial Letter*. Accordingly, we shall deny Gary C. Walk t/a Walk's Moving's Petition and uphold the *Staff Action Secretarial Letter* for failure to comply with Commission's Regulations consistent with this Opinion and Order.

## **Conclusion**

For the reasons discussed herein, we shall deny Gary Walk Jr. t/a Walk's Moving's Petition for Reconsideration, consistent with this Opinion and Order;

**THEREFORE,**

### **IT IS ORDERED:**

1. That the Petition for Reconsideration from Staff Action filed by Gary C. Walk Jr. t/a Walk's Moving on February 1, 2023, at Docket No. C-2022-3035957, seeking reversal of Staff Action imposing \$1,250 fine for violation of the Public Utility Code, is denied.

2. That the Staff Action Secretarial Letter issued on January 25, 2023, is adopted.

3. That within thirty (30) days of the entry date of this Opinion and Order, Gary C. Walk Jr. t/a Walk's Moving, shall remit \$1,250, payable by certified check or money order, to "Commonwealth of Pennsylvania" and sent to:

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

4. That a copy of this Opinion and Order shall be served upon the Financial and Assessment Chief, Office of Administrative Services.

5. That a copy of this Opinion and Order shall be served upon the Commission's Bureau of Investigation and Enforcement.

6. That, upon payment of the civil penalty described in Paragraph No. 3, above, this case be marked closed.

**BY THE COMMISSION,**

A handwritten signature in black ink, appearing to read "Rosemary Chiavetta". The signature is written in a cursive, flowing style.

Rosemary Chiavetta  
Secretary

(SEAL)

ORDER ADOPTED: May 18, 2023

ORDER ENTERED: May 18, 2023