

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission	:	
Bureau of Investigation and Enforcement	:	
	:	C-2023-3038785
v.	:	
	:	
Latino Taxi Service LLC	:	

INITIAL DECISION

Before
Eranda Vero
Administrative Law Judge

INTRODUCTION

This Initial Decision grants the Motion for Default Judgment filed by the Pennsylvania Public Utility Commission’s (Commission) Bureau of Investigation and Enforcement (I&E). Latino Taxi Service LLC (Latino Taxi Service or Respondent) did not file an answer to I&E’s Formal Complaint and therefore, the allegations raised in the Complaint are deemed admitted. Latino Taxi Service shall remit \$300 to the Commission to satisfy its total civil penalty of \$300.

HISTORY OF THE PROCEEDING

On December 7, 2017, the Commission issued the Respondent a Certificate of Public Convenience to transport, as a common carrier, by motor vehicle, persons upon call or demand in the City of Hazleton, and the Borough of West Hazleton, both in Luzerne County, at Docket No. A-2017-2613993.

On April 27, 2022, I&E filed a Formal Complaint against Respondent, at Docket No. C-2022-3029155, alleging that Respondent committed several violations of the Code and Commission regulations. I&E requested that Respondent be ordered to pay a civil penalty in the amount of \$1,500 for the violations alleged in the Complaint. Respondent did not file an Answer to the April 27, 2022, Formal Complaint. Therefore, on June 24, 2022, the Commission's Secretary's Bureau issued a Secretarial Letter advising Respondent that, due to its failure to file an Answer to the Complaint, the allegations in the Complaint are deemed admitted, and it was assessed a civil penalty of \$1,500.

On April 29, 2022, I&E filed a Formal Complaint against Respondent, at Docket No. C-2022-3030955, alleging that Respondent committed violations of Commission regulations. I&E requested that Respondent be ordered to pay a civil penalty in the amount of \$300 for the violations alleged in the Complaint. Respondent did not file an Answer to the April 29, 2022 Formal Complaint. Therefore, on June 24, 2022, the Commission's Secretary's Bureau issued a Secretarial Letter advising Respondent that, due to its failure to file an Answer to the Complaint, the allegations in the Complaint are deemed admitted, and it was assessed a civil penalty of \$300.

On July 13, 2022, I&E filed a Formal Complaint against Respondent, at Docket No. C-2022-3032867, alleging that Respondent committed violations of Commission regulations. I&E requested that Respondent be ordered to pay a civil penalty in the amount of \$300 for the violations alleged in the Complaint. Respondent did not file an Answer to the July 13, 2022, Formal Complaint. Therefore, on August 24, 2022, the Commission's Secretary's Bureau issued a Secretarial Letter advising Respondent that, due to its failure to file an Answer to the Complaint, the allegations in the Complaint are deemed admitted, and it was assessed a civil penalty of \$300. See Complaint Exhibit 1. The August 24, 2022, Secretarial Letter additionally stated that if Respondent disagreed with the determination made within the letter, it may file a Petition for Reconsideration within twenty days of the date of the letter. *Id.* Respondent did not file a Petition for Reconsideration of the August 24, 2022, Secretarial Letter.

On December 22, 2022, the Commission's Bureau of Administration sent Respondent a past due notice advising Respondent that it failed to pay the fines assessed to it in Docket Nos. C-2022-3030955, C-2022-3029155, and C-2022-3032867. The notice requested payment of the fines within fourteen (14) days of receipt of the letter. See Complaint Exhibit 2. On January 10, 2023, the Commission received payment from Respondent of the \$300 fine assessed in C-2022-3030955 and the \$1,500 fine assessed in C-2022-3029155. The \$300 fine assessed to Respondent in C-2022-3032867 remains outstanding.

Respondent did not file a Petition for reconsideration from the August 24, 2022, Secretarial Letter. Therefore, in accordance with the Commission's regulations, the August 24, 2022, Secretarial Letter became the final action of the Commission. See 52 Pa. Code § 5.44(a).

On March 7, 2023, I&E filed a Formal Complaint (Complaint) against the Respondent with the Commission. In the Complaint, I&E alleged that Respondent failed to observe, obey, and comply with the August 24, 2022, Secretarial Letter in that it did not pay the \$300 fine assessed to it in the Letter. I&E argued that, by failing to observe, obey, and comply with the August 24, 2022, Secretarial Letter, Respondent violated Section 501(c) of the Code, 66 Pa.C.S. § 501(c), which requires public utilities to observe, obey, and comply with Commission orders. As relief, I&E requested: that Respondent be ordered to pay the \$300 fine assessed in the August 24, 2022 Secretarial Letter at Docket No. C-2022-3032867, or if payment of the civil penalty is not made, that the Commission issue an order cancelling the Respondent's Certificate of Public Convenience; that this matter be referred to the Pennsylvania Office of Attorney General for appropriate action; and that the Commission certify motor vehicle registrations to the Pennsylvania Department of Transportation for suspension or revocation.

On March 7, 2023, the Commission's Secretary served a copy of I&E's Complaint on the Respondent. The Respondent's answer was due within twenty days of service. The Respondent did not file an answer to the Complaint.

On April 6, 2023, I&E filed a Motion for Default Judgment (Motion) with the Commission's Secretary. I&E's Motion was endorsed with a Notice to Plead advising the Respondent that it had twenty days to file a written response.

To date, the Respondent has not filed a written response to I&E's Motion.

By Motion Judge Assignment Notice dated May 11, 2023, this matter was assigned to me.

The matter is ripe for disposition.

FINDINGS OF FACT

1. The Complainant is the Pennsylvania Public Utility Commission's Bureau of Investigation and Enforcement.
2. The Respondent is Latino Taxi Service LLC.
3. On July 13, 2022, I&E filed a Formal Complaint against Respondent, at Docket No. C-2022-3032867, alleging that Respondent committed violations of Commission regulations. Complaint ¶¶ 18-19.
4. I&E requested that Respondent be ordered to pay a civil penalty in the amount of \$300 for the violations alleged in the Complaint. Complaint ¶ 19.
5. Respondent did not file an Answer to the July 13, 2022, Formal Complaint. Complaint ¶ 20.
6. On August 24, 2022, the Commission's Secretary's Bureau issued a Secretarial Letter advising Respondent that, due to its failure to file an Answer to the Complaint,

the allegations in the Complaint are deemed admitted, and it was assessed a civil penalty of \$300. Complaint ¶ 20; see Complaint Exhibit 1.

7. The August 24, 2022, Secretarial Letter additionally stated that if Respondent disagreed with the determination made within the letter, it may file a Petition for Reconsideration within twenty days of the date of the letter. Complaint ¶ 21; see Complaint Exhibit 1.

8. Respondent did not file a Petition for Reconsideration of the August 24, 2022, Secretarial Letter. Complaint ¶ 26.

9. The August 24, 2022, Secretarial Letter became the final action of the Commission in accordance with the Commission's regulations at 52 Pa. Code § 5.44(a). Complaint ¶ 26.

10. The \$300 fine assessed to Respondent in the August 24, 2022, Secretarial Letter at Docket No. C-2022-3032867 remains outstanding. Complaint ¶ 24.

11. On March 7, 2023, I&E filed a Formal Complaint against the Respondent alleging that Respondent failed to observe, obey, and comply with the August 24, 2022, Secretarial Letter in that it did not pay the \$300 fine assessed to it in the Letter.

12. As relief, I&E requested: that Respondent be ordered to pay the \$300 fine, or if payment of the civil penalty is not made, that the Commission issue an order cancelling the Respondent's Certificate of Public Convenience; that this matter be referred to the Pennsylvania Office of Attorney General for appropriate action; and that the Commission certify motor vehicle registrations to the Pennsylvania Department of Transportation for suspension or revocation.

13. On March 7, 2023, the Commission's Secretary served a copy of I&E's Complaint on the Respondent.

14. The Respondent's answer was due within twenty days of service.
15. The Respondent did not file an answer to I&E's Complaint.
16. On April 6, 2023, I&E filed a Motion for Default Judgment with the Commission.
17. I&E's Motion was endorsed with a Notice to Plead advising the Respondent that it had twenty days to file a written response to the Motion.
18. The Respondent did not file a written response to the Motion.

DISCUSSION

The Commission's Rules of Administrative Practice and Procedure permit parties to file motions. 52 Pa. Code §5.103.

The Commission has discretion to dismiss any complaint without a hearing if, in its opinion, a hearing is not necessary in the public interest. 66 Pa.C.S. § 703(b); 52 Pa. Code § 5.21(d). A hearing is necessary only to resolve the disputed questions of fact, and when the question presented is one of law, the Commission need not hold a hearing. *Lehigh Valley Power Comm. v. Pa. Pub. Util. Comm'n.*, 563 A.2d 548 (Pa. Cmwlth. 1989); *Edan Transp. Corp. v. Pa. Pub. Util. Comm'n.*, 623 A.2d 6 (Pa. Cmwlth. 1993).

Pursuant to Section 5.61(c) of the Commission's Regulations, 52 Pa. Code § 5.61(c), a respondent who fails to answer a complaint within the twenty-day response period may be deemed in default, and the relevant facts stated in the complaint may be deemed admitted. *See Hickory Hollow Farms c/o Lamar Harnish v. Liberty Power Holdings LLC and United Energy All. LLC*, Docket No. C-2016-2559494 (Order entered Aug. 31, 2017). The Commonwealth Court has upheld the Commission's authority to sustain complaints that are not

answered within twenty days. *See Fusaro v. Pa. Pub. Util. Comm'n*, 382 A.2d 794, (Pa. Cmwlth. 1978) (*Fusaro*).

In the present Complaint, I&E avers that, on July 13, 2022, it filed a Formal Complaint against Respondent, at Docket No. C-2022-3032867, alleging that Respondent committed violations of Commission regulations. I&E requested that Respondent be ordered to pay a civil penalty in the amount of \$300 for the violations alleged in the Complaint. Respondent did not file an Answer to the July 13, 2022, Formal Complaint.

I&E further avers that on August 24, 2022, the Commission's Secretary's Bureau issued a Secretarial Letter advising Respondent that, due to its failure to file an Answer to the I&E Complaint at Docket No. C-2022-3032867, the allegations in that Complaint were deemed admitted, and Respondent was assessed a civil penalty of \$300. *See* Complaint Exhibit 1. The August 24, 2022, Secretarial Letter additionally stated that if Respondent disagreed with the determination made within the letter, it may file a Petition for Reconsideration within twenty days of the date of the letter. *Id.*

I&E states that Respondent did not file a Petition for Reconsideration of the August 24, 2022, Secretarial Letter. Additionally, the August 24, 2022, Secretarial Letter became the final action of the Commission in accordance with the Commission's regulations at 52 Pa. Code § 5.44(a).¹ The \$300 fine assessed against the Respondent in the Letter remains outstanding.

Pursuant to Section 5.61(c) of the Commission's 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.

¹ Actions taken by staff, other than a 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, unless a different time period is specified in this chapter or in the act. 52 Pa. Code § 5.44(a).

The Respondent was provided with adequate notice of the alleged violations against it and had the opportunity to respond. Consequently, the material allegations contained in I&E's present Complaint against Latino Taxi Service are deemed admitted. More specifically, I&E's averment that the Respondent has failed to pay the \$300 fine ordered by the Commission in its August 24, 2022, Secretarial Letter is deemed admitted. By failing to observe, obey, and comply with the August 24, 2022, Secretarial Letter, Respondent violated Section 501(c) of the Code, 66 Pa.C.S. § 501(c), which requires public utilities to observe, obey, and comply with Commission orders.²

Based on my review of the record, the averments in I&E's Motion, and Respondent's failure to reply to either the Complaint or the Motion, I will grant the Motion and sustain I&E's present Complaint.

CONCLUSIONS OF LAW

1. The Commission's Rules of Administrative Practice and Procedure permit parties to file motions. Specifically, a party may file a motion for summary judgment pursuant to 52 Pa. Code §5.102.

2. The Commission has discretion to dismiss any complaint without a hearing if, in its opinion, a hearing is not necessary to the public interest. 66 Pa.C.S. § 703(b); 52 Pa. Code § 5.21(d).

3. A respondent who fails to answer a complaint within the twenty-day response period may be deemed in default, and the relevant facts stated in the complaint may be deemed admitted. 52 Pa. Code § 5.61(c).

² Every public utility, its officers, agents, and employees, and every other person or corporation subject to the provisions of this part, affected by or subject to any regulations or orders of the commission or of any court, made, issued, or entered shall observe, obey, and comply with such regulations or orders, and the terms and conditions thereof. 66 Pa.C.S. § 501(c).

4. Latino Taxi Service LLC has failed to file an answer to the Complaint within twenty days, is in default and the facts set forth in the complaint are deemed admitted. 52 Pa. Code § 5.61(c).

5. Actions taken by staff, other than a 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, unless a different time period is specified in this chapter or in the act. 52 Pa. Code § 5.44(a).

6. Every public utility, its officers, agents, and employees, and every other person or corporation subject to the provisions of this part, affected by or subject to any regulations or orders of the commission or of any court, made, issued, or entered shall observe, obey, and comply with such regulations or orders, and the terms and conditions thereof. 66 Pa.C.S. § 501(c).

7. By failing to observe, obey, and comply with the August 24, 2022, Secretarial Letter, Latino Taxi Service LLC has violated Section 501(c) of the Code, 66 Pa.C.S. § 501(c).

ORDER

THEREFORE,

IT IS ORDERED:

1. That the Motion for Default Judgment filed by the Commission's Bureau of Investigation and Enforcement is granted.

2. That the allegations in the Complaint filed by the Commission's Bureau of Investigation and Enforcement are deemed admitted and the Complaint is sustained.

3. That within thirty (30) days of the entry date of a Final Order in this matter, Latino Taxi Service LLC shall remit \$300, payable by certified check or money order, to "Commonwealth of Pennsylvania" with the docket number of this proceeding listed, and sent to:

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

4. That if Latino Taxi Service LLC fails to make the civil penalty payment required by Ordering Paragraph No. 3 above, within thirty (30) days of the entry 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 Latino Taxi Service LLC at Docket No. A-2017-2613993 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 collection of the total set forth above and appropriate action; and

(c) That the Commission shall send a copy of this Order to the Pennsylvania Department of Transportation for suspension or revocation of motor vehicle registrations that were used under Latino Taxi Service LLC's operating authority.

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

