



COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
COMMONWEALTH KEYSTONE BUILDING
400 NORTH STREET, HARRISBURG, PA 17120

BUREAU OF
INVESTIGATION
&
ENFORCEMENT

November 27, 2023

Via Electronic Filing

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

Re: Pennsylvania Public Utility Commission,
Bureau of Investigation and Enforcement v.
Herbert B Smith & Agee Copart T/A Samuel W. Smith Moving & Storage
Docket No. C-2022-3035603
Petition for Leave to Withdraw Complaint

Dear Secretary Chiavetta:

Enclosed for electronic filing please find the Bureau of Investigation and Enforcement's Petition for Leave to Withdraw Complaint 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 blue ink that reads 'mswindler'.

Michael L. Swindler
Deputy Chief Prosecutor
Bureau of Investigation and Enforcement
PA Attorney ID No. 43319
(717) 783-6369
mwindler@pa.gov

MLS/ac
Enclosures

cc: Administrative Law Judge Dennis J. Buckley (*via email*)
Per Certificate of Service

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission,	:	
Bureau of Investigation and Enforcement	:	
	:	
v.	:	Docket No. C-2022-3035603
	:	
Herbert B Smith & Agee Copart	:	
t/a Samuel W. Smith Moving & Storage	:	

**PETITION FOR LEAVE TO WITHDRAW COMPLAINT
OF THE BUREAU OF INVESTIGATION AND ENFORCEMENT**

TO THE COMMISSION:

The Bureau of Investigation and Enforcement (“I&E”) of the Pennsylvania Public Utility Commission (“Commission”), by and through its prosecuting attorney, pursuant to 52 Pa. Code § 5.94(a), petitions for leave to withdraw the Formal Complaint (“Complaint”) in the above captioned proceeding. I&E submits the following in support thereof:

1. Herbert B Smith & Agee Copart t/a Samuel W Smith Moving & Storage (“Respondent”) was issued a certificate of public convenience by this Commission on or about May 5, 1994, at Docket No. A-00111095 for truck authority.
2. On September 23, 2022, I&E filed a Formal Complaint docketed at Docket No. C-2022-3035603 against Respondent. In its Complaint, I&E alleged that Respondent violated Section 510(b) of the Pennsylvania Public Utility Code, 66 Pa.C.S. §§ 510(b) and 510(c), by failing to file an assessment report for calendar year 2020 and failing to satisfy its 2021-2022 Fiscal Year Assessment in that it did not pay the amount due within thirty (30) days of receipt of the invoice. For relief, I&E requested that the Commission direct Respondent to pay a total of \$571, consisting of its outstanding assessment balance of \$271 and a total civil penalty of \$300 and to file assessment reports going forward.

3. Upon further investigation into the Commission's records, I&E determined that by Secretarial Letter dated December 28, 2022, the Commission at Docket No. M-2022-3034805 cancelled the Respondent's certificate of public convenience due to Respondent's failure to maintain acceptable evidence of insurance on file with the Commission.

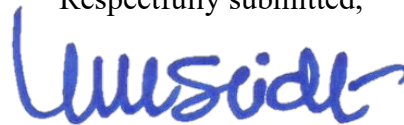
4. As Respondent's certificate of public convenience was cancelled by the Commission on December 28, 2022, there is no longer any form of relief that I&E is seeking in this formal proceeding.

5. Moreover, it was determined at the telephonic hearing held on November 8, 2023, before Administrative Law Judge Dennis Buckley that Respondent owner Herbert B Smith is deceased based on information provided by his son, Herbert Smith Jr..

6. Given the analysis above, the public interest is served by the withdrawal of the Formal Complaint filed at C-2022-3035603.¹

WHEREFORE, for all the foregoing reasons, the Bureau of Investigation and Enforcement respectfully requests that the Commission grant this Petition.

Respectfully submitted,



Michael L. Swindler
Deputy Chief Prosecutor
PA Attorney ID No. 43319

Pennsylvania Public Utility Commission
Bureau of Investigation and Enforcement
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120
(717) 783-6369
mwindler@pa.gov

Date: November 27, 2023

¹ Withdrawal of the Formal Complaint also renders the outstanding Motion for Default Judgment moot.

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission,	:	
Bureau of Investigation and Enforcement	:	
	:	
v.	:	Docket No. C-2022-3035603
	:	
Herbert B Smith & Agee Copart	:	
t/a Samuel W. Smith Moving & Storage	:	

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the foregoing **Petition for Leave to Withdraw** in the manner and upon the parties listed below, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a party).

Served via First-Class and Electronic Mail

Herbert B Smith & Agee Copart
T/A Samuel W. Smith Moving & Storage
c/o Herbert Smith Jr.
1728 Meadow Street
Philadelphia, PA 19124
sw_smith1@verizon.net



Michael L. Swindler
Deputy Chief Prosecutor
PA Attorney ID No. 43319

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