



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

BUREAU OF
INVESTIGATION
&
ENFORCEMENT

December 28, 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.
Jerome McCree Sr.
Docket No. C-2023-3037385
**I&E Preliminary Objection to Legal Insufficiency
and Insufficient Specificity**

Dear Secretary Chiavetta:

Enclosed for electronic filing please find the Bureau of Investigation and Enforcement's ("I&E") **Preliminary Objection to Legal Insufficiency and Insufficient Specificity** of Respondent's statement that was submitted in response to I&E's Formal 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, appearing to read 'Colby B. Widdowson', is written over a light blue circular stamp.

Colby B. Widdowson
Prosecutor
Bureau of Investigation & Enforcement
PA Attorney ID No. 326185
(717) 787-2139
cwiddowson@pa.gov

CW/jfm
Enclosures

cc: Michael L. Swindler, Deputy Chief Prosecutor (*via email only*)
Per Certificate of Service

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

| | | |
|---|---|---------------------------|
| Pennsylvania Public Utility Commission, | : | |
| Bureau of Investigation and Enforcement | : | |
| Complainant | : | |
| | : | |
| v. | : | Docket No. C-2023-3037385 |
| | : | |
| Jerome McCree Sr. | : | |
| Respondent | : | |

NOTICE TO PLEAD

The Bureau of Investigation and Enforcement (“I&E”) of the Pennsylvania Public Utility Commission (“Commission”) has filed a **Preliminary Objection to Legal Insufficiency and Insufficient Specificity** in the above-captioned matter. Pursuant to 52 Pa. Code §§ 5.61, 5.101 you are hereby notified to file a written response within ten (10) days of service of the Preliminary Objection. Any Answer to the Preliminary Objection must be filed with the Pennsylvania Public Utility Commission, with a copy served to the I&E prosecutor.


The Answer shall raise all factual and legal arguments that you wish to claim in your defense and must include the reference number of this Complaint. Your Answer must be verified, and the original shall be mailed 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. The link to eFiling is located under the Filing & Resources tab on the homepage.

Additionally, please electronically serve a copy on:

Colby B. Widdowson, Prosecutor
Pennsylvania Public Utility Commission
Bureau of Investigation and Enforcement
cwiddowson@pa.gov



Colby B. Widdowson
Prosecutor
PA Attorney ID No. 326185

Pennsylvania Public Utility Commission
Bureau of Investigation and Enforcement
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120
(717) 787-2139
cwiddowson@pa.gov

Dated: December 28, 2023

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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| Bureau of Investigation and Enforcement | : | |
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| | : | |
| Jerome McCree Sr. | : | |
| Respondent | : | |

**PRELIMINARY OBJECTION
TO THE LEGAL INSUFFICIENCY AND THE INSUFFICIENT SPECIFICITY
OF RESPONDENT’S PLEADING**

Pursuant to 52 Pa. Code §§ 5.101, 5.103, the Pennsylvania Public Utility Commission’s (“Commission”) Bureau of Investigation and Enforcement (“I&E”), by its prosecuting attorneys, files this Preliminary Objection to the Legal Insufficiency and the Insufficient Specificity of the pleading filed on September 16, 2023 by Jerome McCree Sr. (“Respondent”), which was submitted in response to I&E’s Formal Complaint (“Complaint”). In support thereof, I&E respectfully represents as follows:

I. PROCEDURAL HISTORY

1. I&E commenced this action on July 6, 2023, by filing a Complaint alleging that Respondent operated a vehicle for the purpose of transporting passengers for compensation, in call or demand service, within the Commonwealth of Pennsylvania without receiving certificate/authority from the Commission, in violation of 66 Pa C.S. §1101.

2. Such allegation is premised on the factual findings of I&E's April 28, 2023, enforcement detail, during which, Respondent was observed, by a PUC Motor Carrier Enforcement Officer, to be operating a vehicle for the purpose of transporting passengers for compensation, in call or demand service, within the Commonwealth of Pennsylvania without receiving certificate/authority from the Commission.

3. As a result of the above-described violations, the Complaint seeks the following: (a) payment of a \$1,000 civil penalty pursuant to 66 Pa.C.S. §§ 3301(a)-(b) and 3314(a), and 52 Pa. Code § 69.1201; and (b) that the Commission order such other remedy as the Commission may deem to be appropriate, including possible suspension of the vehicle registration by the Pennsylvania Department of Transportation.

4. I&E hereby incorporates by reference the Complaint that it filed in this proceeding on July 6, 2023.

5. On July 6, 2023, the Complaint was served upon Respondent by certified mail.

6. Attached to the Complaint was a Notice advising the Respondent that he must file an Answer within twenty (20) days of service of the Complaint.

7. On August 19, 2023, the Complaint was published in the PA Bulletin.

8. On August 23, 2023, after the certified mail was returned as "unclaimed," the Complaint was re-served by first class mail.

9. On September 13, 2023, I&E mailed, via first class mail, a final fine letter to Respondent, closing the case, after Respondent had failed to file an Answer.

10. On September 16, 2023, Respondent efiled a pleading (“Respondent’s Pleading”) that stated the following:

I, Jerome B McCree Sr., request a hearing before an administrative judge. At this time, I will not make any legal arguments against the allegations until I seek legal counsel.

11. I&E hereby incorporates by reference Respondent’s Pleading that was filed in this proceeding on September 16, 2023.

12. On November 28, 2023, this case was re-opened by the Secretary’s Bureau based upon Respondent’s Pleading.

13. At the time of this filing, no other pleadings or answers have been filed by Respondent or counsel for Respondent.

II. BASIS FOR PRELIMINARY OBJECTION FOR LEGAL INSUFFICIENCY

14. Pursuant to Section 5.101, a preliminary objection may be filed based on the legal insufficiency of a pleading. 52 Pa. Code § 5.101(a)(4).

15. Section 5.61 requires that an Answer to a formal complaint: (1) Set forth in paragraphs numbered to correspond with the complaint; (2) Advise the parties and the Commission as to the nature of the defense; (3) Admit or deny specifically all material allegations of the complaint; (4) State concisely the facts and matters of law relied upon; and (5) Include a copy of a document, or the material part of a document when relied upon in the answer. 52 Pa. Code § 5.61(b).

16. Respondent’s Pleading falls short of all five required elements of an Answer to a Formal Complaint.

17. As such, Respondent's Pleading is legally insufficient to be considered an Answer to a Complaint, as described at Section 5.61.

III. BASIS FOR PRELIMINARY OBJECTION FOR INSUFFICIENT SPECIFICITY

18. All allegations in Paragraphs 1 through 17 are incorporated as if fully set forth herein.

19. Alternatively, if the Commission deems Respondent's Pleading to be an Answer, under Section 5.61, I&E raises a second preliminary objection to Respondent's Pleading based upon insufficient specificity, pursuant to 52 Pa. Code §§ 5.101(a)(3), (c).

20. As alleged above, Respondent's Pleading failed to: (1) Set forth in paragraphs numbered to correspond with the complaint; (2) Advise the parties and the Commission as to the nature of the defense; (3) Admit or deny specifically all material allegations of the complaint; (4) State concisely the facts and matters of law relied upon; and (5) Include a copy of a document, or the material part of a document when relied upon in the answer. 52 Pa. Code § 5.61(b).

21. These failings are material and fall well short of the specificity required by Section 5.61.

WHEREFORE, I&E respectfully requests that the Commission issue a decision that grants I&E's Preliminary Objection for Legal Insufficiency by striking Respondent's Pleading and directing Respondent to file an Answer that conforms to the requirements of 52 Pa. Code § 5.61, and in the alternative, if Respondent's Pleading is deemed to be an Answer, I&E respectfully requests that the Commission issue a decision that grants

I&E's Preliminary Objection for Insufficient Specificity by striking Respondent's Pleading and directing Respondent to file an Answer that conforms to the requirements of 52 Pa. Code § 5.61.

Respectfully submitted,



Colby B. Widdowson
Prosecutor
PA Attorney ID No. 326185

Pennsylvania Public Utility Commission
Bureau of Investigation and Enforcement
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120
(717) 787-2139
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Date: December 28, 2023

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| Respondent | : | |

CERTIFICATE OF SERVICE

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

Service via Certified First-Class Mail:

Jerome McCree Sr.
232 Chalfont Street
Pittsburgh, PA 15210



Colby B. Widdowson
Prosecutor
PA Attorney ID No. 326185

Pennsylvania Public Utility Commission
Bureau of Investigation and Enforcement
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