

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission	:	
Bureau of Investigation and Enforcement	:	
	:	
v.	:	C-2023-3044414
	:	
The People’s Champ Moving & Delivery	:	
Service, LLC	:	

INITIAL DECISION

Before
Steven K. Haas
Administrative Law Judge

INTRODUCTION

The Commission’s Bureau of Investigation and Enforcement (I&E) filed a Formal Complaint against the People’s Champ Moving & Delivery Service, LLC (Respondent) in which it alleged that Respondent was operating as a common carrier and/or contract carrier by motor vehicle in Pennsylvania without possessing a certificate of public convenience. More specifically, I&E alleged that Respondent engaged in the transportation of household goods for compensation between points in Pennsylvania in September 2023. I&E requested that a \$5,000 civil penalty be imposed. Respondent never filed an Answer to I&E’s Complaint, nor did it file a response to a subsequent Motion for Default Judgement filed by I&E. In this Initial Decision, I will grant I&E’s Motion for Default Judgment, sustain I&E’s Formal Complaint, and order Respondent to pay a civil penalty in the amount of \$5,000.

HISTORY OF THE PROCEEDING

On or about November 21, 2023, I&E filed a Formal Complaint against Respondent in which it alleged that Respondent engaged in the transportation of household

goods for compensation between points in Pennsylvania in September 2023, without possessing a certificate of public convenience from the Commission. I&E is seeking imposition of a civil penalty in the amount of \$5,000. Respondent did not file an Answer to I&E's Formal Complaint.

By notice dated December 28, 2023, the Commission scheduled a telephonic hearing for February 13, 2024, at 10:00 a.m. Subsequently, by notice dated February 5, 2024, the Commission informed the parties that the telephonic hearing was being changed to a telephonic Prehearing Conference. This action was taken to address problems related to the service of the Formal Complaint on Respondent and to provide Respondent with the opportunity to respond to the Formal Complaint and to discuss a litigation schedule. The service issues will be addressed more fully below.

The telephonic Prehearing Conference was convened as scheduled on February 13, 2024, at 10:00 a.m. Colby Widdowson, Esquire, appeared on behalf of I&E. No one connected to the call on behalf of Respondent. During the conference, Mr. Widdowson described issues the Commission encountered in its attempts to serve the Formal Complaint on Respondent, as well as the Commission's efforts made in response to those issues. I directed that Respondent would be given an additional 20 days, or until March 4, 2024, to file an Answer to I&E's Formal Complaint and that if no Answer was filed, I&E would have the opportunity to file any motions it chose. Respondent did not file an Answer by the March 4, 2024, deadline.

On March 4, 2024, I&E filed a Motion for Default Judgment, which included a notice to plead indicating that Respondent had 20 days to file an Answer to the Motion. Respondent did not file an Answer to I&E's Motion.

For the reasons stated below, I&E's Motion for Default Judgment will be granted, and I&E's Formal Complaint will be sustained.

FINDINGS OF FACT

1. The Complainant is the Commission’s Bureau of Investigation and Enforcement, which is the prosecutory arm of the Commission.
2. The Respondent is The People’s Champ Moving & Delivery Service, LLC.
3. Respondent does not possess a certificate of public convenience authorizing it to provide transportation service in Pennsylvania. Complaint, ¶16.
4. Respondent possesses a registration number from the United States Department of Transportation (DOT), DOT Number 3556531.
5. DOT records for the Respondent show that it has a business address of 139 Throckmorton Street, #2, Freehold, NJ 07728, and a mailing address of 35 Lockwood Avenue, Freehold, NJ 07728.
6. On November 27, 2023, the Commission served the Formal Complaint on Respondent via electronic mail at info@ThePeoplesChampmds.com.
7. On November 28, 2023, the Formal Complaint was served on the Respondent via First-Class Mail and Certified Mail, return receipt requested, to the following addresses:

The People’s Champ Moving & Delivery Service, LLC
Attn: Joshua Mitchell
139 Throckmorton Street, #2
Freehold, NJ 07728

The People’s Champ Moving & Delivery Service, LLC
Attn: Joshua Mitchell
35 Lockwood Avenue
Freehold, NJ 07728

8. A Notice to Plead was attached to the Formal Complaint.

9. Neither of the certified mailings sent to the Respondent on November 28, 2023, were delivered, since the Commission did not receive signed receipts confirming delivery.

10. The First-Class mailing sent to the Respondent on November 28, 2023, at 139 Throckmorton Street, #2, Freehold, NJ 07728 was returned to the Commission as undeliverable.

11. The First-Class mailing sent to the Respondent on November 28, 2023, at 35 Lockwood Avenue, Freehold, NJ 07728 was not returned to the Commission.

12. On January 4, 2024, the Formal Complaint was re-served on the Respondent via First-Class Mail and Certified Mail, return receipt requested, to the following addresses:

The People's Champ Moving & Delivery Service, LLC
Attn: Joshua Mitchell
139 Throckmorton Street, #2
Freehold, NJ 07728

The People's Champ Moving & Delivery Service, LLC
Attn: Joshua Mitchell
35 Lockwood Avenue
Freehold, NJ 07728

13. The First Class and Certified Mailings sent to the Respondent on January 4, 2024, at 139 Throckmorton Street, #2, Freehold, NJ 07728 were returned to the Commission as undeliverable.

14. The First-Class mailing sent to the Respondent on January 4, 2024, at 35 Lockwood Avenue, Freehold, NJ 07728 was not returned to the Commission.

15. The Certified Mailing sent to the Respondent on January 4, 2024, at 35 Lockwood Avenue, Freehold, NJ 07728 was returned to the Commission as “unclaimed.”

16. By notice dated February 5, 2024, the Commission scheduled a telephonic Prehearing Conference for February 13, 2024, at 10:00 a.m.

17. The Prehearing Conference notice was served on the Respondent via Electronic Mail at info@thepeopleschampmds.com and via First Class Mail to the following addresses:

The People’s Champ Moving & Delivery Service, LLC
Attn: Joshua Mitchell
139 Throckmorton Street, #2
Freehold, NJ 07728

The People’s Champ Moving & Delivery Service, LLC
Attn: Joshua Mitchell
35 Lockwood Avenue
Freehold, NJ 07728

18. The Prehearing Conference notice included the call-in telephone number and PIN for use by the parties to connect to the conference.

19. No one connected to the Prehearing Conference on behalf of the Respondent.

20. During the Prehearing Conference I allowed additional time, until March 4, 2024, for the Respondent to file an Answer to I&E’s Formal Complaint.

21. Respondent never filed an Answer to I&E’s Formal Complaint.

22. On March 4, 2024, I&E filed a Motion for Default Judgement seeking that its Complaint be sustained and imposition of a \$5,000 civil penalty against Respondent.

23. Respondent never filed a response to I&E's Motion for Default Judgement.

DISCUSSION

The Commission is empowered and charged with the duty to enforce the requirements of the Public Utility Code. 66 Pa.C.S. § 501(a). Complainant is the Commission's Bureau of Investigation and Enforcement, which was established by statute to prosecute complaints against public utilities pursuant to 66 Pa.C.S. § 308.2(a)(11). I&E alleges that Respondent provided unauthorized intrastate transportation service in September of 2023 and seeks the imposition of a civil penalty. As the party seeking an order from the Commission, I&E bears the burden of proof in this case. 66 Pa.C.S. § 332(a). Preponderance of the evidence is the degree of proof which I&E must meet to establish its case before the Commission. *Samuel J. Lansberry, Inc. v. Pa. Pub. Util. Comm'n*, 578 A.2d 600 (Pa. Cmwlth. 1990); *Se-Ling Hosiery v. Margulies*, 70 A.2d 854 (Pa. 1950).

I&E alleges in its Complaint that Respondent engaged in the transportation of household goods for compensation between points in Pennsylvania in September 2023, without possessing a certificate of public convenience. Respondent never filed an Answer to I&E's Complaint, nor did it appear for the Prehearing Conference or file a response to I&E's Motion for Default Judgement.

I will first address the service issues mentioned above. As noted, the DOT's website indicates that the Respondent possesses a DOT registration number, DOT Number 3556531. The website also indicates that the Respondent has a business address of 139 Throckmorton Street, #2, Freehold, NJ 07728, and a mailing address of 35 Lockwood Avenue, Freehold, NJ 07728.

As described above, on November 27, 2023, the Commission served the Formal Complaint on Respondent via electronic mail at info@ThePeoplesChampmds.com. On

November 28, 2023, the Formal Complaint was served on the Respondent via First-Class Mail and Certified Mail, return receipt requested, to the following addresses:

The People's Champ Moving & Delivery Service, LLC
Attn: Joshua Mitchell
139 Throckmorton Street, #2
Freehold, NJ 07728

The People's Champ Moving & Delivery Service, LLC
Attn: Joshua Mitchell
35 Lockwood Avenue
Freehold, NJ 07728

A Notice to Plead was attached to the Formal Complaint. Neither of the certified mailings sent to the Respondent on November 28, 2023, were delivered to the Respondent, since the Commission did not receive signed receipts confirming delivery. The First-Class mailing sent to the Respondent on November 28, 2023, at 139 Throckmorton Street, #2, Freehold, NJ 07728 was returned to the Commission as undeliverable. The First-Class mailing sent to the Respondent on November 28, 2023, at 35 Lockwood Avenue, Freehold, NJ 07728 was not returned to the Commission.

On January 4, 2024, the Formal Complaint was re-served on the Respondent via First-Class Mail and Certified Mail, return receipt requested, to the following addresses:

The People's Champ Moving & Delivery Service, LLC
Attn: Joshua Mitchell
139 Throckmorton Street, #2
Freehold, NJ 07728

The People's Champ Moving & Delivery Service, LLC
Attn: Joshua Mitchell
35 Lockwood Avenue
Freehold, NJ 07728

The First-Class and Certified Mailings sent to the Respondent on January 4, 2024, at 139 Throckmorton Street, #2, Freehold, NJ 07728 were returned to the Commission as undeliverable. The First-Class mailing sent to the Respondent on January 4, 2024, at 35

Lockwood Avenue, Freehold, NJ 07728 was not returned to the Commission. The Certified Mailing sent to the Respondent on January 4, 2024, at 35 Lockwood Avenue, Freehold, NJ 07728 was returned to the Commission as “unclaimed.”

I also note here that in preparation for the February 13, 2024, Prehearing Conference, I searched the internet for The People’s Champ Moving & Delivery Service, LLC. Several sites appeared providing information about the company. Each of the sites I reviewed indicated an address of 139 Throckmorton Street, #2, Freehold, NJ 07728 and/or 35 Lockwood Avenue, Freehold, NJ 07728.

The addresses to which the Commission attempted to serve the Formal Complaint on the Respondent were the addresses indicated on the DOT website. Service to these addresses was attempted via both First-Class and Certified, return receipt requested, mail on two separate occasions. If either or both of the indicated addresses were no longer valid or had been changed, it would have been the Respondent’s responsibility to notify DOT and update its information on the DOT’s website, as well as any other websites advertising the Respondent’s business.¹ I am comfortable that the Commission took all reasonable steps to serve the Formal Complaint on the Respondent.

The Respondent did not file an Answer to either I&E’s Formal Complaint or its Motion for Default Judgment. Pursuant to Section 5.61(c) of the Commission’s regulations, a Respondent who fails to file an answer to a complaint within the 20-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). 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). Accordingly, the material facts alleged by I&E in its Complaint are deemed admitted.

¹ Further, “[i]t is the duty of a party to apprise the Commission promptly of changes to the party’s current address.” 52 Pa. Code § 1.53(d).

In its Complaint, I&E averred that Respondent does not possess a Certificate of Public Convenience from the Commission authorizing it to provide intrastate transportation service. Complaint, ¶16. It averred that on or about September 15, 2023, Respondent agreed to move household goods for compensation from 642 Brill Street, Philadelphia, PA to two separate locations in Philadelphia: 777 Mayfair Street and 2020 North 20th Street. Complaint, ¶13. I&E averred that Respondent carried out the move on September 21, 2023, for a fee of approximately \$1,522.70. Complaint, ¶¶14-15. I&E attached to its Complaint a copy of an estimate provided to the customer, as well as a Bill of Lading, dated September 21, 2023, confirming the move and the charge to the customer. Complaint, Exhibit 1.

The evidence presented by I&E in its Formal Complaint supports a finding that the Respondent violated Section 3310(b) of the Public Utility Code, which provides, in relevant part, that any person or corporation that operates as a common carrier or contract carrier by motor vehicle without a certificate of public convenience issued by the Commission authorizing such service in violation of 66 Pa.C.S. §3310(a) “shall be ordered to pay an administrative penalty as prescribed in subsection (c).” 66 Pa.C.S. §3310(b). Section 3310(c) provides, “[t]he amount of the administrative penalty under subsection (b) shall be \$5,000 for a first violation and \$10,000 for a second or subsequent violation.” 66 Pa.C.S. §3310(c). I&E’s evidence demonstrates that the Respondent provided household goods moving service within Pennsylvania in September 2023 for compensation without possessing a Certificate of Public Convenience from the Commission authorizing such service. Therefore, I&E’s Motion for Default Judgment will be granted and the Respondent is ordered to pay a civil penalty of \$5,000. If the Respondent does not make ordered payment within thirty days of the date of entry of a Final Order by the Commission, the matter will be referred to the Pennsylvania Office of Attorney General for appropriate action.

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. The proponent of a rule or order bears the burden of proof. 66 Pa.C.S. § 332(a).

4. "Burden of proof" means a duty to establish a fact by a preponderance of the evidence, or evidence more convincing, by even the smallest degree, than the evidence presented by the other party. *Se-Ling Hosiery v. Margulies*, 70 A.2d 854 (Pa. 1950).

5. A Respondent who fails to file an answer to a complaint within the 20-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).

6. The Commission has 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).

7. Any person or corporation that operates as a common carrier or contract carrier by motor vehicle without a certificate of public convenience issued by the Commission authorizing such service in violation of 66 Pa.C.S. §3310(a) shall be ordered to pay an administrative penalty as prescribed in subsection (c)." 66 Pa.C.S. §3310(b).

8. The amount of the administrative penalty under 66 Pa.C.S. §3310(b) shall be \$5,000 for a first violation and \$10,000 for a second or subsequent violation." 66 Pa.C.S. §3310(c).

9. A civil penalty in the amount of \$5,000 for violation of 66 Pa.C.S. § 3310 is appropriate.

ORDER

THEREFORE,

IT IS ORDERED:

1. That the Motion for Default Judgment filed by the Commission's Bureau of Investigation and Enforcement against The People's Champ Moving & Delivery Service, LLC at Docket No. C-2023-3044414 is granted.

2. That the Formal Complaint of the Commission's Bureau of Investigation and Enforcement against The People's Champ Moving & Delivery Service, LLC at Docket No. C-2023-3044414 is sustained.

3. That within thirty (30) days of the entry date of the Final Commission Order in this matter, The People's Champ Moving & Delivery Service, LLC shall remit a civil penalty in the amount of \$5,000 payable by certified check or money order to the "Commonwealth of Pennsylvania" with the docket number of this proceeding listed thereon, and sent to:

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

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

5. 5. That the Bureau of Administrative Services, Assessment Section shall monitor this matter for compliance.

