



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

BUREAU OF
INVESTIGATION
&
ENFORCEMENT

May 22, 2024

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 Motion to Strike Respondent's Document

Dear Secretary Chiavetta:

Enclosed for electronic filing please find the Bureau of Investigation and Enforcement's ("I&E") **Motion to Strike Respondent's Document** that was filed with the Secretary's Bureau on May 7, 2024, 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".

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

CW/ac
Enclosures

cc: Administrative Law Judge Katrina L. Dunderdale (*via email - kdunderdal@pa.gov*)
Michael L. Swindler, Deputy Chief Prosecutor (*via email - mswindler@pa.gov*)
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 Motion to Strike Respondent’s Document in the above-captioned matter. Pursuant to 52 Pa. Code § 5.103(c), you are hereby notified to file a written response within twenty (20) days of service of the Motion. Any Answer to the Motion must be filed with the Pennsylvania Public Utility Commission, with a copy served to the I&E prosecutor.

Your Answer must be verified, pursuant to 52 Pa. Code § 1.36, and the original sent to:

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

Additionally, you must serve a copy on the undersigned prosecutor.



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: May 22, 2024

**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	:	

MOTION TO STRIKE RESPONDENT’S DOCUMENT

TO THE OFFICE OF ADMINISTRATIVE LAW JUDGE:

Pursuant to 52 Pa. Code § 5.103, the Pennsylvania Public Utility Commission’s (“Commission”) Bureau of Investigation and Enforcement (“I&E”), by its prosecuting attorneys, files this Motion to Strike the document filed by Respondent, on May 7, 2024, with the Secretary’s Bureau (“Respondent’s Document”). 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 Jerome McCree, Sr. (“Respondent”) operated a vehicle for the purpose of transporting passengers for compensation, in call or demand service, within the Commonwealth of Pennsylvania without first receiving a certificate or authority from the Commission, in violation of 66 Pa. C.S. § 1101.

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

3. Section 3301 of the Public Utility Code, 66 Pa.C.S. § 3301, authorizes the Commission to impose civil penalties, up to \$1,000.00, on any public utility or any other person or corporation subject to the Commission's authority for violation(s) of the Public Utility Code and/or Commission regulations. Section 3301(a)-(b) of the Public Utility Code, 66 Pa.C.S. § 3301(a)-(b), allows for the imposition of a separate civil penalty for each violation and each day's continuance of such violation(s).

4. On September 18, 2023, Respondent responded to the Complaint by filing an undated response which stated:

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.

5. On November 27, 2023, Respondent responded to the Complaint for a second time by filing an undated response which stated:

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.

6. On December 28, 2023, I&E filed a Preliminary Objection to Legal Insufficiency and Insufficient Specificity ("Preliminary Objections") of Respondent's responses to the Complaint.

7. On January 10, 2024, Respondent filed a response to the Preliminary Objections, which stated:

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.

8. On March 4, 2024, this matter was assigned to Administrative Law Judge Katrina L. Dunderdale (“Judge Dunderdale”).

9. On March 5, 2024, Judge Dunderdale issued a First Interim Order Requiring Respondent to File More Specific Pleading.

10. The First Interim Order found that Respondent’s responses to the Complaint were insufficient and unresponsive to the Complaint and directed that Respondent must file a specific Answer, with the Commission’s Secretary’s Bureau, on or before 4:00 p.m. on Friday, April 12, 2024.

11. The First Interim Order directed that the “failure of Respondent to file a specific Answer on or before April 12, 2024, may result in granting the requests of the Bureau of Investigation and Enforcement without an initial hearing.”

12. Respondent failed to file an Answer to the Formal Complaint, as directed in the First Interim Order.

13. On April 22, 2024, I&E filed a Motion for Default Judgement requesting that the Commission enter a Default Order against Respondent that deems Respondent to be in default, finds the relevant facts stated in the Complaint to be deemed admitted, and orders and assesses a civil penalty of One Thousand Dollars (\$1,000.00).

14. The Motion for Default Judgement was served via First Class Mail.

15. Attached to the Motion for Default Judgement was a Notice advising Respondent that he must file an Answer within twenty (20) days of service of the Motion and serve a copy of the Answer to the Motion on the undersigned prosecutor.

16. I&E hereby incorporates by reference the Motion for Default Judgement that it filed in this proceeding on April 22, 2024.

17. On May 7, 2024, Respondent electronically filed a document with the Secretary's Bureau ("Respondent's Document") that was untitled, but purported by Respondent to be "in response to the notice I received dated 4/22/2024 wherein I have been informed about a pending fine of \$1,000."

18. I&E hereby incorporates by reference the Respondent's Document that was filed in this proceeding on May 7, 2024.

19. Respondent's Document was filed with the Secretary's Bureau without a Certificate of Service or service upon the undersigned prosecutor.

20. On May 20, 2024, Judge Dunderdale issued a letter to I&E notifying I&E of the filing of Respondent's Document.

21. At the time of this filing, Respondent has not filed an Answer to the Formal Complaint that complies with Commission regulations and the First Interim Order.

II. BASIS FOR MOTION TO STRIKE

22. Pursuant to Section 1.57(b) of the Commission's regulations, "[d]ocuments filed on the Commission's electronic filing system must contain a certificate of service stating that the document was filed electronically [and] the certificate of service must identify the manner in which service on each party was accomplished." 52 Pa. Code § 1.57(b).

23. Pursuant to Section 1.54(a) of the Commission's regulations, "[p]leadings, submittals, briefs and other documents, filed in proceedings pending before the Commission shall be served upon parties in the proceeding." 52 Pa. Code § 1.54(a).

24. Respondent's Document did not comply with Commission regulations, in that it did not contain a Certificate of Service and was not served upon the undersigned.

25. Based upon this additional failure to follow Commission regulations, I&E submits this Motion to Strike Respondent's Document pursuant to 52 Pa. Code § 5.103.

26. Respondent's Document should be stricken, I&E's Motion for Default Judgement should be granted, and I&E's Complaint should be sustained.

27. Alternatively, if Respondent's Document is not stricken, I&E would respectfully request that the I&E's Motion for Default Judgement be granted because Respondent's Document fails to raise any questions of law or fact in response to the Motion for Default.

28. In the instant matter, Respondent has offered no explanation, let alone good cause, for the failure to timely file an Answer, that complies with Commission regulations, to I&E's Complaint.

WHEREFORE, I&E respectfully requests that the presiding officer issue a decision that grants I&E's Motion by striking Respondent's Document, grants I&E's Motion for Default Judgement, and sustains I&E's Complaint and directs as follows:

- a. Orders and assesses a civil penalty of One Thousand Dollars (\$1,000.00);
- b. That the Commission order such other relief as the Commission may deem to be appropriate; and

- c. Should Respondent fail to pay the civil penalty upon Order of the Commission, orders this matter be referred to the Pennsylvania Office of Attorney General for collection of outstanding amounts due and any other appropriate action.

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
cwiddowson@pa.gov

Date: May 22, 2024

**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	:	

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the foregoing **Motion to Strike Respondent’s Document**, 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 Mail

Jerome McCree Sr.
232 Chalfont Street
Pittsburgh, PA 15210



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

Dated: May 22, 2024