

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission,	:	
Bureau of Investigation and Enforcement	:	
	:	
v.	:	C-2024-3047311
	:	
Pitt-Ohio Express, Inc.	:	

**INTERIM ORDER
HOLDING HEARING IN ABEYANCE
PENDING A RULING ON MOTION FOR DEFAULT JUDGMENT**

PROCEDURAL BACKGROUND

Complaint

On March 12, 1981, the Pennsylvania Public Utility Commission (commission) issued to Pitt-Ohio Express, Inc., (Express or Respondent), a Certificate of Public Convenience, at Docket No. A-00102471, for approval to transport, as a common carrier, by motor vehicle and truck, such commodities as are dealt in by retail shoe stores, from the distribution facility of Kinney Service Corp., in the township of Hampden, Cumberland County, to points in the counties of Allegheny, Beaver, Butler, Lawrence, Armstrong, Westmoreland, Fayette and Washington, as a transfer of part of the rights authorized under the certificate issued at Docket No. A-00088995, Folder 2, to Hammel's Express, Inc., a corporation of the Commonwealth of Pennsylvania, subject to the same limitations and conditions. All granted authorities were issued at Docket No. A-822800. Complaint ¶ 6.

On March 12, 2024, the Commission's prosecutorial arm, the Bureau of Investigation and Enforcement (I&E) filed a Complaint with the Commission's Secretary's

Bureau (Secretary) against Respondent at Docket No. C-2024-3047311. On March 13, 2024, the Secretary served the Complaint upon Respondent by first-class certified mail at 15 27th Street, Pittsburgh, PA 15222, which is the last known address that Respondent provided to the Commission.

Attached to the Complaint was a Notice advising Respondent that it must file an Answer within twenty (20) days of service of the Complaint. The Notice also advised Respondent that if it failed to answer the Complaint, I&E would request that the Commission issue an Order imposing the penalty set forth in the Complaint. The twenty (20) days to file an Answer to the Complaint expired on April 2, 2024. Respondent did not file an Answer to the Complaint.

In the Complaint, I&E alleged that Express violated Section 510(b) of the Public Utility Code (Code), 66 Pa C.S. § 510(b), by failing to file an assessment report demonstrating its gross intrastate operating revenue for the 2021 calendar year. I&E proposed a civil penalty of \$500.00 for this violation. Complaint ¶ 15.

For relief, I&E requested that Express be ordered 1) to pay a civil penalty of \$500 and 2) to file assessment reports on a going-forward basis. I&E further requested that if payment of the civil penalty is not made, that the Commission 1) cancel Respondent's Certificate of Public Convenience; 2) refer the matter to the Pennsylvania Office of Attorney General for appropriate actions and 3) certify motor vehicle registrations to the Pennsylvania Department of Transportation, if any, for suspension or revocation.

Hearing Notice and Prehearing Order

By Call-In Telephone Hearing Notice dated April 29, 2024, the Parties were informed that a call-in telephonic hearing on the Complaint would be convened by me on June 10, 2024, at 10:00 a.m. Also on April 29, 2024, a Prehearing Ordre was issued to the Parties informing them about the applicable procedural rules for the hearing.

Motion for Default Judgment

On May 2, 2024, I&E filed a Motion for Default Judgment (Motion). A Notice was attached to the Motion informing Express to file a response within twenty (20) days of the date of service of the Motion. In the Motion, I&E averred that Express did not file an Answer to the Complaint nor pay the civil penalty of \$500 that was sought in the Complaint for Express's failure to report its gross intrastate operating revenues for the 2021 calendar year. Motion ¶¶ 7, 10.

I&E further submitted, "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)." Motion ¶ 8.

Thus, I&E requested entry of a Commission order 1) directing Express to pay the \$500.00 civil penalty, within thirty (30) days of the entry date of the Commission's Order; 2) directing the Commission's Bureau of Technical Utility Services to cancel Express's Certificates of Public Convenience at A-00102471 and A-00088995, if Express failed to pay the \$500 civil penalty; 3) referring the matter to the Pennsylvania Office of Attorney General for appropriate actions and 4) certifying Express's motor vehicle registrations to the Pennsylvania Department of Transportation, if any, for suspension or revocation.

The twenty (20) days to file a response to the Motion expired on May 23, 2024. Express did not file a response to the Motion.

Hearing Cancellation

Since Express had not filed a response to the Motion within the prescribed time, I directed the scheduling staff for the Office of Administrative Law Judge to cancel the scheduled hearing, in order for me to consider and rule on the Motion. Consequently, on

May 31, 2024, a Hearing Cancellation Notice was issued to the Parties, cancelling the June 10, 2024, hearing.

Accordingly in the ordering paragraphs below, the evidentiary hearing in this proceeding will be held in abeyance pending a ruling on the Motion.

ORDER

THEREFORE,

IT IS ORDERED:

1. That the evidentiary hearing on the Complaint, Pennsylvania Public Utility Commission Bureau of Investigation and Enforcement v. Pitt-Ohio Express, Inc. at Docket No. C-2024-3047311, will be held in abeyance pending a ruling on the Pennsylvania Public Utility Commission's Bureau of Investigation and Enforcement's Motion for Default Judgment filed in this proceeding.

2. That a ruling on the Pennsylvania Public Utility Commission Bureau of Investigation and Enforcement's Motion for Default Judgment filed in this proceeding at Docket No. C-2024-3047311 will be prepared and issued.

Dated: June 3, 2024


Conrad A. Johnson
Administrative Law Judge

C-2024-3047311 - BUR OF INVESTIGATION & ENFORCEMENT v. PITT-OHIO EXPRESS INC

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