

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission	:	
Bureau of Investigation and Enforcement	:	
	:	
v.	:	C-2024-3047881
	:	
Riding on Family Love, LLC	:	

**INITIAL DECISION**

Before  
Alphonso Arnold III  
Administrative Law Judge

**INTRODUCTION**

This Initial Decision grants the Motion for Default Judgment filed by the Pennsylvania Public Utility Commission’s Bureau of Investigation and Enforcement and sustains its Complaint filed against a utility for failure of the utility to file assessment reports and to pay its past-due assessments.

**HISTORY OF THE PROCEEDING**

On March 26, 2024, the Pennsylvania Public Utility Commission’s (“Commission”) Bureau of Investigation and Enforcement (“I&E”) filed a Formal Complaint with the Commission against Riding on Family Love, LLC (“Respondent”). I&E alleged in its Complaint that Respondent failed to timely file assessment reports for the 2020 and 2022 calendar years in violation of 66 Pa.C.S. § 510(b). I&E further alleged that Respondent failed to satisfy its 2022-2023 and 2023-2024 Fiscal Year assessments in that it did not pay the

assessment amounts due within 30 days of receipt of each assessment invoice in violation of 66 Pa.C.S. § 510(c).

For relief, I&E requested that Respondent be ordered to pay a total of \$1,819 which consists of its outstanding assessment balance of \$619 and a total civil penalty of \$1,200. Additionally, I&E requested that Respondent be directed to file assessment reports on a going-forward basis. Further, I&E requested that if payment of the outstanding assessment balance and civil penalty is not made, that the Commission issue an order: (1) cancelling Respondent's Certificate of Public Convenience; (2) referring this matter to the Pennsylvania Office of Attorney General for collection of monies due and appropriate action; and (3) certifying motor vehicle registrations to the Pennsylvania Department of Transportation, if any, for suspension or revocation.

On March 27, 2024, the Complaint was served on Respondent. Pursuant to the Commission's regulations, Respondent's Answer to the Complaint was due within 20 days after date of service. 52 Pa. Code § 5.61(a). Further, the Complaint advised Respondent that if it failed to Answer the Complaint within 20 days, that I&E would request that the Commission issue an Order imposing the relief requested in the Complaint. Respondent did not file an Answer to the Complaint.

On May 9, 2024, I&E filed and served a Motion for Default Judgment ("Motion"), wherein I&E requested that the Commission sustain the Complaint due to Respondent's failure to file an Answer to the Complaint. The Motion was properly endorsed with a Notice to Plead, which informed Respondent that it had 20 days from the date of service of the Motion to file a written response to the Motion. Respondent did not file a written response to the Motion.

On May 17, 2024, the Commission issued a Motion Judge Assignment Notice, assigning me as the Presiding Officer to this proceeding.

For the reasons discussed below, I&E's Motion will be granted, and its Complaint will be sustained.

### FINDINGS OF FACT

1. Complainant is the Commission's Bureau of Investigation and Enforcement and is the entity established by statute to prosecute complaints against public utilities pursuant to 66 Pa.C.S. § 308.2(a)(11). Complaint ¶ 2; *See also Implementation of Act 129 of 2008; 2 Organization of Bureaus and Offices*, Docket No. M-2008-2071852 at 5 (Order entered Aug. 11, 2011) (transferring authority to prosecute assessment cases to I&E).

2. Respondent is Riding on Family Love LLC, which was granted a Certificate of Public Convenience by this Commission at A-2018-3001454 for paratransit authority. Complaint ¶ 6.

#### **Failure to file assessment reports**

3. On or about February 10, 2021, the Commission mailed to Respondent an assessment report for Respondent to report its gross intrastate operating revenues for the 2020 calendar year. Complaint ¶ 11.

4. The assessment report was accompanied by instructions which notified Respondent that the report was to be completed and returned to the Commission on or before March 31, 2021. Complaint ¶ 12.

5. Respondent failed to submit its assessment report for the 2020 calendar year to the Commission. Complaint ¶ 14.

6. On or about January 31, 2023, the Commission mailed to Respondent an assessment report for Respondent to report its gross intrastate operating revenues for the 2022 calendar year. Complaint ¶ 15.

7. The assessment report was accompanied by instructions which notified Respondent that the report was to be completed and returned to the Commission on or before March 31, 2023. Complaint ¶ 16.

8. Respondent failed to submit its assessment report for the 2022 calendar year to the Commission. Complaint ¶ 18.

### **Failure to pay assessments**

#### **2022-2023 Fiscal Year**

9. On or about September 9, 2022, the Commission mailed to Respondent, by certified mail, an assessment invoice for the July 1, 2022, to June 30, 2023, Fiscal Year (“2022-2023 Fiscal Year”) that was based on Respondent’s reported revenues for the 2021 calendar year. Respondent’s assessment was \$364.00. Complaint ¶ 19.

10. Accompanying the assessment invoice was a notice of assessment that informed Respondent that it was obligated to pay the amount listed on the assessment invoice within 30 days or file objections within 15 days. Complaint ¶ 20.

11. On September 13, 2022, Respondent provided an electronic signature to the United States Postal Service for the certified mailing, which indicated that it received the assessment invoice and notice of assessment for the 2022-2023 Fiscal Year. Complaint ¶ 21.

12. The Commission received neither objection nor payment from Respondent to the assessment amount set forth in the 2022-2023 Fiscal Year Assessment Invoice. Complaint ¶ 22.

13. On or about October 26, 2022, the Commission mailed to Respondent, by first class mail, a delinquent assessment notice that Respondent had a past due assessment balance of \$364.00 for the 2022-2023 Fiscal Year. Complaint ¶ 24.

14. The delinquent assessment notice informed Respondent that it was obligated to pay the amount listed on the notification letter within 20 days of the letter and the consequences of failure to do so. Complaint ¶ 25.

15. Respondent failed to pay their 2022-2023 assessment invoice of \$364.00. Complaint ¶ 27.

### **2023-2024 Fiscal Year**

16. On or about September 8, 2023, the Commission mailed to Respondent, by certified mail, an assessment invoice for the July 1, 2023, to June 30, 2024, Fiscal Year (“2023-2024 Fiscal Year”) that was based, in part, on Respondent’s estimated revenues for the 2022 calendar year due to Respondent’s failure to file an assessment report stating its 2022 calendar year revenues. Respondent’s assessment was \$255.00. Complaint ¶ 28.

17. Attached to the assessment invoice was a notice of assessment informing Respondent that it was obligated to pay the amount listed on the assessment invoice within 30 days or file objections within 15 days. Complaint ¶ 29.

18. On or about September 8, 2023, an electronic signature was provided to the United States Postal Service for the certified mailing, which indicated that Respondent received the assessment invoice and notice of assessment for the 2023-2024 Fiscal Year. Complaint ¶ 30.

19. The Commission received neither objection nor payment from Respondent to the assessment amount set forth in the 2023-2024 Fiscal Year Assessment Invoice. Complaint ¶ 31.

20. On or about October 24, 2023, the Commission mailed to Respondent, by first class mail, a delinquent assessment notice that Respondent had a past due assessment balance of \$619.00, which consists of \$255.00 for the 2023-2024 Fiscal Year and \$364.00 for the prior 2022-2023 Fiscal Year. Complaint ¶ 33.

21. The delinquent assessment notice informed Respondent that it was obligated to pay the amount listed on the notification letter within 20 days of the letter and the consequences of failure to do so. Complaint ¶ 34.

22. Respondent failed to pay its cumulative 2022-2023 Fiscal Year and 2023-2024 Fiscal Year Assessment Invoice of \$619.00. Complaint ¶ 35.

### **Formal Complaint and Motion for Default Judgment**

23. On March 26, 2024, I&E filed a Formal Complaint with the Commission against Respondent alleging that Respondent failed to timely file assessment reports for the 2020 and 2022 calendar years and to satisfy its 2022-2023 and 2023-2024 Fiscal Year assessments.

24. The Complaint advised Respondent that if it failed to Answer the Complaint within 20 days, that I&E would request that the Commission issue an Order imposing the relief requested in the Complaint.

25. Respondent did not file an Answer to the Complaint.

26. On May 9, 2024, I&E filed and served Complainant with a Motion for Default Judgment wherein I&E requested that the Commission sustain the Complaint due to Respondent's failure to file an Answer to the Complaint.

27. The Motion was properly endorsed with a Notice to Plead, which informed Respondent that it had 20 days of date of service of the Motion to file a written response to the Motion.

28. Respondent did not file a written response to the Motion.

## DISCUSSION

### *Legal Standards*

Section 501(a) of the Public Utility Code (“Code”) empowers and charges the Commission with the duty to enforce, execute and carry out the provisions of the Code. 66 Pa.C.S. § 501(a). Complainant, I&E, was established by statute to prosecute complaints against public utilities. 66 Pa.C.S. § 308.2(a)(11). The Commission may complain in writing, setting forth any act or thing done or omitted to be done by any public utility in violation, or claimed violation, of any law which the Commission has jurisdiction to administer, or of any regulation or order of the Commission. 66 Pa.C.S. § 701. As the proponent of a rule or order, I&E in this proceeding bears the burden of proof pursuant to Section 332(a) of the Code. 66 Pa.C.S. § 332(a).

Respondent is a public utility as defined by 66 Pa.C.S. § 102. Respondent has an active Certificate of Public Convenience at Docket No. A-2018-3001454 granted by the Commission for paratransit authority. Section 501(c) of the Code states that public utilities have a duty to comply with Commission orders and regulations. 66 Pa.C.S. § 501(c).

### *Assessments*

In its Complaint, I&E alleged that Respondent violated Sections 510(b) and (c) of the Code, 66 Pa.C.S. § 510(a), (b).

Public utilities regulated by the Commission are required under Section 510 of the Code to file and pay an assessment that provides a reasonable share of the Commission's costs in administering regulatory oversight. 66 Pa.C.S. § 510. Specifically, public utilities are required to file a statement under oath on or before March 31 each year showing its gross intrastate operating revenues for the preceding calendar year. 66 Pa.C.S. § 510(b). The Commission is to provide notice to each public utility of its assessment amount owed, and the public utility is to pay its assessment within 30 days of receipt of such notice unless it objects to the assessment within 15 days of receipt of such notice. 66 Pa.C.S. § 510(c). Pursuant to Section 3301 of the Code, 66 Pa.C.S. § 3301, the Commission is authorized to impose civil penalties up to \$1,000 per violation on utilities that fail to file or pay their annual assessments on time.

The Commission developed a multifactor process for the assessment of civil penalties for failure to pay annual assessments and/or failure to file annual assessment reports. *See Pa. Pub. Util. Comm'n v. Juan Genet Enter., LLC t/a Safe Destinations*, Docket No. C-2014-2450660 (Opinion and Order entered Aug. 3, 2017); *Pa. Pub. Util. Comm'n v. Leo Movers & Storage, Inc.*, Docket No. C-2015-2494528, (Opinion and Order entered Aug. 3, 2017); *Pa. Pub. Util. Comm'n v. Hoffman Landscaping & Trucking, LLP*, Docket No. C-2015-2495061 (Opinion and Order entered Sept. 21, 2017); *Pa. Pub. Util. Comm'n v. Deer Haven, LLP*, Docket No. C-2015-2498095 (Opinion and Order entered Oct. 26, 2017); *Pa. Pub. Util. Comm'n v. Reach for the Stars Limousine Serv. Inc.*, Docket No. C-2015-2499276 (Opinion and Order entered Oct. 26, 2017); *Pa. Pub. Util. Comm'n v. TTM Operating Corp. Inc.*, Docket No. C-2016-2558445 (Opinion and Order entered Apr. 19, 2018). The process is based on several factors: (1) the type of violation involved, which can be the failure to pay the assessment amount and/or the failure to file an assessment report; (2) the assessment amount in question; and (3) the utility's compliance history with Commission Regulations for the three years prior to the filing of the Complaint. Considering those factors, the Commission uses the following approach.

If the company fails to pay its assessment, the civil penalty process includes the following: (1) if the Company's past-due assessment amount is less than or equal to \$350, then the civil penalty is \$50 for any company with a good compliance history and \$100 for any company with an unacceptable compliance history; or (2) if the Company's past-due assessment

amount is greater than \$350, then the civil penalty is 15% of the past-due yearly assessment on a company with a good compliance history or 25% of the past-due yearly assessment on a company with an unfavorable compliance history. *Pa. Pub. Util. Comm'n v. Jadon Trucking, Inc.*, Docket No. C-2021-3028563 (Opinion and Order entered Dec. 8, 2022) (*Jadon Trucking*).

If the company fails to file its annual assessment reports, the civil penalty process also includes the following: (1) if the company's yearly assessment amount is less than or equal to \$500 and the company has a good compliance history then the civil penalty is \$250, but if the company has an unfavorable compliance history then the civil penalty is \$500; or (2) if the company's yearly assessment amount is greater than \$500 and the company has a good compliance history then the civil penalty is \$500, but if the company has an unfavorable compliance history then the civil penalty is \$1000. *Jadon Trucking*.

Regarding a respondent's compliance history and the need to deter future violations, it is Commission practice to review Commission records for a period of three years prior to the date of the filing of the complaint and up to and including the date of Commission action in this matter to determine whether a particular company has a satisfactory compliance record. In reviewing Commission records to determine whether transportation entities have complied with applicable statutes, regulations, and orders, the Commission evaluates violations including, but not limited to, the following: (1) our assessment requirements in 66 Pa.C.S. § 510; (2) the unauthorized provision of service under 66 Pa.C.S. §§ 1101 and 1102; (3) the Commission's insurance requirements in 52 Pa. Code, Ch. 32; (4) our tariff requirements in 52 Pa. Code, Chs. 23, 29, and 31; (5) and the Commission's vehicle, service, and driver requirements in 52 Pa. Code, Ch. 29. *Jadon Trucking*.

#### *Motion for Default Judgment*

Respondent did not file an Answer to I&E's Complaint. As a result, I&E filed a Motion for Default Judgment seeking that its Complaint be sustained.

The Commission's regulations permit parties to file motions. 52 Pa. Code § 5.103. The Commission's regulations state that 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). Further, 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).

### *Analysis*

As noted, Respondent did not file an Answer to I&E's Complaint. Therefore, I deem the facts alleged in the Complaint admitted by Respondent. 52 Pa. Code § 5.61(c).

Amongst the facts admitted by Respondent are that it did not file an assessment report showing its gross intrastate revenues for the 2020 calendar year on or before March 31, 2021, and that it did not file an assessment report showing its gross intrastate revenues for the 2022 calendar year on or before March 31, 2023. As such, Respondent violated 66 Pa.C.S. § 510(b), cited above.

### *Failure to File Reports*

For Respondent's failure to file its 2020 and 2022 calendar year assessment reports, I&E proposed a \$1,000 civil penalty (\$500 per report not filed). Complaint ¶ 36. I&E maintained that the civil penalty is consistent with past Commission decisions and is based on the type of violation involved, the amount of Respondent's assessment balance related to the 2022-2023 and 2023-2024 Fiscal Years, and Respondent's compliance history with the Code and Commission regulations for the three years prior to the filing of the Complaint. Complaint ¶ 36. Regarding Respondent's compliance history, I&E submitted that a review of the Commission's records for the three years prior to the date of the Complaint demonstrated that Respondent has a poor compliance history with the Commission. Complaint ¶ 37 fn 3.

In applying the factors for the assessment of a civil penalty for failure of a utility to file its annual assessment reports, I find that the \$1,000 civil penalty, \$500 for each report not filed, proposed by I&E is reasonable and is in accordance with the Commission's process of assessing civil penalties considering Respondent's unfavorable compliance history and yearly assessment amounts.<sup>1</sup>

### *Failure to Pay Assessments*

Further, Respondent, by failing to Answer the Complaint, admitted that it did not object to or pay its 2022-2023 Fiscal Year assessment invoice of \$364 nor its 2023-2024 Fiscal Year assessment invoice of \$255. Respondent received both documents via certified mail from the Commission. As such, Respondent violated 66 Pa.C.S. § 510(c), cited above.

For Respondent's failure to pay its 2022-2023 and 2023-2024 Fiscal Year assessments, I&E proposed a civil penalty of 25% of the total outstanding assessment balance for the 2022-2023 and 2023-2024 Fiscal Years rounded up to the nearest hundred-dollar figure, or \$200. Complaint ¶ 37. I&E maintained that the civil penalty is consistent with past Commission decisions and is based on the type of violation involved, the amount of Respondent's assessment balance related to the 2022-2023 and 2023-2024 Fiscal Years, and Respondent's compliance history with the Code and Commission regulations for the three years prior to the filing of the Complaint. Complaint ¶ 37. As noted, I&E submitted that Respondent has a poor compliance history with the Commission. Complaint ¶ 37 fn 3.

In applying the factors for the assessment of a civil penalty for failure of a utility to pay its annual assessments, I note that for the 2022-2023 Fiscal Year, Respondent has a past-due assessment amount greater than \$350 (\$364) and an unfavorable compliance history. Therefore, the civil penalty to be assessed for Respondent's failure to pay its 2022-2023 Fiscal Year assessment is 25% of its past-due yearly assessment amount of \$364, or \$91. For the 2023-

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<sup>1</sup> I agree with I&E and find that Respondent has an unfavorable compliance history, given Respondent's failure to file its 2020 and 2022 calendar year assessment reports and to pay its 2022-2023 and 2023-2024 Fiscal Year assessments within the past three years.

2024 Fiscal Year, Respondent has a past-due assessment less than \$350 (\$255) and an unfavorable compliance history. Therefore, the civil penalty to be assessed for Respondent's failure to pay its 2023-2024 Fiscal Year assessment is \$100. The total civil penalty to be assessed against Respondent for its failure to pay its 2022-2023 and 2023-2024 Fiscal Year assessments is \$191.

*Conclusion*

The total level of civil penalty to be assessed against Respondent for its violations of Sections 510(b) and (c) of the Code is \$1,191. It is anticipated that this level of civil penalty will serve as a sufficient deterrent against future violations by Respondent.

In conclusion, Respondent's Motion will be granted, as modified, and its Complaint sustained, in the Ordering paragraphs below. Respondent was provided with adequate notice of the alleged violations against it and had the opportunity to respond and to request a hearing, which it did not. Respondent was also advised that if it failed to file an Answer within twenty days to the Complaint that Respondent would request that the Commission issue an Order imposing the penalties set forth in the Complaint. Respondent will be assessed a civil penalty in the amount of \$1,191, in addition to being Ordered to pay its outstanding assessment balance.

CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the subject matter of and the parties to this proceeding. 66 Pa.C.S. §§ 501, 510, 701.
2. The Commission's regulations permit parties to file motions. 52 Pa. Code § 5.103.

3. 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).

4. The Commonwealth Court has upheld the Commission's authority to sustain complaints that are not answered within 20 days. *See Fusaro v. Pa. Pub. Util. Comm'n*, 382 A.2d 794 (Pa. Cmwlth. 1978).

5. Public utilities are required to file a statement under oath on or before March 31 each year showing its gross intrastate operating revenues for the preceding calendar year. 66 Pa.C.S. § 510(b).

6. The Commission is to provide notice to each public utility of its assessment amount owed, and the public utility is to pay its assessment within 30 days of receipt of such notice unless it objects to the assessment within 15 days of receipt of such notice. 66 Pa.C.S. § 510(c).

7. The Commission is authorized to impose civil penalties up to \$1,000 per violation on utilities that fail to file or pay their annual assessments on time. 66 Pa.C.S. § 3301.

8. The Commission developed a multifactor process for the assessment of civil penalties for failure to pay annual assessments and/or failure to file annual assessment reports, based on: (1) the type of violation involved, which can be the failure to pay the assessment amount and/or the failure to file an assessment report; (2) the assessment amount in question; and (3) the utility's compliance history with Commission Regulations for the three years prior to the filing of the Complaint.. *See Pa. Pub. Util. Comm'n v. Juan Genet Enter., LLC t/a Safe Destinations*, Docket No. C-2014-2450660 (Opinion and Order entered Aug. 3, 2017); *Pa. Pub. Util. Comm'n v. Leo Movers & Storage, Inc.*, Docket No. C-2015-2494528, (Opinion and Order entered Aug. 3, 2017); *Pa. Pub. Util. Comm'n v. Hoffman Landscaping & Trucking, LLP*, Docket No. C-2015-2495061 (Opinion and Order entered Sept. 21, 2017); *Pa. Pub. Util. Comm'n v. Deer Haven, LLP*, Docket No. C-2015-2498095 (Opinion and Order

entered Oct. 26, 2017); *Pa. Pub. Util. Comm'n v. Reach for the Stars Limousine Serv. Inc.*, Docket No. C-2015-2499276 (Opinion and Order entered Oct. 26, 2017); *Pa. Pub. Util. Comm'n v. TTM Operating Corp. Inc.*, Docket No. C-2016-2558445 (Opinion and Order entered Apr. 19, 2018).

9. Respondent did not file assessment reports showing its gross intrastate revenues for the 2020 or 2022 calendar years. 66 Pa.C.S. § 510(b)

10. Respondent did not pay its 2022-2023 and 2023-2024 Fiscal Year assessments. 66 Pa.C.S. § 510(c).

11. A civil penalty of \$1,191 for Respondent's violations of 66 Pa.C.S. § 510(b) and (c) is appropriate. 66 Pa.C.S. § 3301.

### ORDER

THEREFORE

IT IS ORDERED:

1. That the Motion for Default Judgment filed by the Commission's Bureau of Investigation and Enforcement on May 9, 2024, is granted, as modified, consistent with this Initial Decision.

2. That the allegations in the Commission's Bureau of Investigation and Enforcement's Formal Complaint are deemed admitted, and the Formal Complaint is hereby sustained as modified, consistent with this Initial Decision.

3. That within 30 days of the entry date of a Final Order in this matter, Riding on Family Love, LLC shall remit \$1,810 (\$619 outstanding assessment and \$1,191

outstanding civil penalty) payable by certified check or money order, to “Commonwealth of Pennsylvania” with the docket number of this proceeding listed thereon, sent to:

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

4. That Riding on Family Love, LLC report its gross intrastate operating revenues for all future calendar years, pursuant to requirements at 66 Pa.C.S. § 510(b), and further cease and desist from further violations of the Public Utility Code and the Public Utility Commission’s regulations.

5. That the Public Utility Commission’s Bureau of Technical Utility Services suspend or revoke the Certificate of Public Convenience at Docket No. A-2018-3001454 if payment of the total set forth in Ordering Paragraph No. 3, above, is not made within 30 days after service of the Public Utility Commission’s Final Order in this proceeding.

6. That if Riding on Family Love, LLC fails to comply with the Public Utility Commission’s Final Order and pay the civil penalty and assessment balance within 30 days of the Commission’s Final Order, the Commission shall forward a copy of the Order to the Pennsylvania Department of Transportation for the purpose of having the Department of Transportation suspend or revoke the vehicle registrations for all vehicles that were used under Riding on Family Love, LLC’s operating authority.

7. That, if Riding on Family Love, LLC fails to make the payment required by Ordering Paragraph No. 3 above, within 30 days of the entry date of the Pennsylvania Public Utility Commission’s Final Order, it is further ordered that the Bureau of Administrative Services, Assessment Section, shall refer this matter to the Pennsylvania Office of Attorney General for collection of the total set forth above and appropriate action.

8. That the record at Docket No. C-2024-3047881 shall be marked closed.

Date: June 26, 2024

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/s/  
Alphonso Arnold III  
Administrative Law Judge