

**PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA 17120**

Public Meeting held November 7, 2024

Commissioners Present:

Stephen M. DeFrank, Chairman
Kimberly Barrow, Vice Chair
Kathryn L. Zerfuss
John F. Coleman, Jr.
Ralph V. Yanora

Go Green Taxi LLC – Cancellation of Certificate
of Public Convenience

M-2024-3047909
A-2015-2504430

OPINION AND ORDER

BY THE COMMISSION:

Before the Pennsylvania Public Utility Commission (Commission) for consideration and disposition is a Petition for Reconsideration¹ filed by Go Green

¹ Because the instant Petition for Reconsideration challenges the action taken in the Secretarial Letter issued on June 25, 2024 (*June 2024 Secretarial Letter*) relative to this proceeding, we shall regard it as a Petition for Reconsideration from Staff Action (Petition) pursuant to our Regulations at 52 Pa. Code § 5.44(a). Section 5.44(a) of our Regulations states that a Petition for Reconsideration from Staff Action must be filed within twenty (20) days after service of notice of the action. Although the Petition was filed twenty-two (22) days after the issuance of the *June 2024 Secretarial Letter*, the Commission's records indicate that the *June 2024 Secretarial Letter* was served by first-class mail by the United States Postal Service. Section 1.56(b) of our Regulations, 52 Pa. Code § 1.56(b), states that in such an instance, three (3) days shall be added to the prescribed period for a party to do an act (*i.e.*, in this case, file the Petition). Therefore, we shall consider the Petition to be timely filed.

Taxi LLC (Go Green or Respondent) on July 17, 2024, relative to the above-captioned proceeding. The Secretarial Letter to which the Petition refers was issued on June 25, 2024 (*June 2024 Secretarial Letter*). No Answers to the Petition have been filed. For the reasons that follow, we will grant the Petition, conditionally rescind the *June 2024 Secretarial Letter*, and refer this matter to the Commission’s Bureau of Technical Utility Services (TUS) for such further action as may be warranted, consistent with this Opinion and Order.

History of the Proceeding

On April 25, 2024, the Commission issued an Order (*April 2024 Tentative Order*),² wherein it tentatively approved the cancelation of the Certificate of Public Convenience (Certificate) of Go Green, for failure to maintain evidence of insurance. More specifically, the Commission explained that it had been notified that the motor carriers listed in Appendix A, including Go Green, no longer had acceptable evidence of insurance on file with the Commission. Therefore, the Commission sent a letter of notification to all carriers, including Go Green, notifying them that their operating authority was suspended. The Commission explained that subsequent to the date of the suspension, the motor carriers, including Go Green, failed to cure the deficiency and to maintain acceptable evidence of insurance with the Commission, notwithstanding notification by the Commission of the suspension and the necessity to provide acceptable evidence of insurance. As a result, the Commission found the motor carriers, including Go Green, to be out of compliance with the insurance requirements set forth at Section 512 of the Pennsylvania Public Utility Code (Code), 66 Pa.C.S. § 512,

² *See, Cancelation of Certificates of Public Convenience for Motor Carriers; Failure to Maintain Evidence of Insurance*, Docket No. M-2024-3047909 (Order entered April 25, 2024). In the *April 2024 Tentative Order*, the Commission tentatively approved the cancelation of the Certificates of Public Convenience for a total of 130 motor carriers, whose names were listed in Appendix A of the *April 2024 Tentative Order*, for failure of the motor carriers, including Go Green, to maintain evidence of insurance.

and Chapter 32 of our Regulations at 52 Pa. Code §§ 32.11-32.16. As such, the Commission deemed it appropriate to initiate the process to cancel the motor carriers', including Go Green's, certificates. *April 2024 Tentative Order* at 2. The motor carriers, including Go Green, were advised that they must, within thirty (30) days of the publication of the *April 2024 Tentative Order* in the Pennsylvania Bulletin, either: (1) have acceptable evidence of insurance filed with the Commission; or (2) file comments to the *April 2024 Tentative Order* challenging the cancelation of their Certificate. Further, the motor carriers, including Go Green, were advised that if they failed to timely respond to the *April 2024 Tentative Order* in the manner described above, TUS would issue a Secretarial Letter canceling their Certificate. *Id.* at 3-4.

By way of the *June 2024 Secretarial Letter*, the Commission Staff canceled the Respondent's Certificate, for failure to comply with the *April 2024 Tentative Order*. Specifically, the *June 2024 Secretarial Letter* indicated that Go Green failed to respond to the *April 2024 Tentative Order* and that the Respondent has remained in non-compliance with the insurance requirements of the Code at 66 Pa.C.S. § 512. Furthermore, Go Green was informed that the Commission will request the Pennsylvania Department of Transportation to put an administrative hold on the Respondent's vehicle registrations and that it will **NOT** be able to register any new vehicles or to renew any existing vehicle registrations until a new application for authority is submitted. Additionally, the *June 2024 Secretarial Letter* informed Go Green that all unpaid fines or assessments accrued while it had operating authority will still be due. *June 2024 Secretarial Letter* at 1.

On July 17, 2024, Go Green filed the instant Petition in response to the *June 2024 Secretarial Letter*. No response to the Petition has been filed.

Discussion

A. Legal Standards

Before us is a Petition for Reconsideration from Staff Action, pursuant to 52 Pa. Code § 5.44(a). Petitions for Reconsideration from Staff Action are governed by Section 5.44(a) of the Commission's Rules of Administrative Practice and Procedure, 52 Pa. Code § 5.44(a), which provides the following:

Actions taken by staff, other than a presiding officer, under authority delegated by the Commission, will be deemed to be the final action of the Commission unless reconsideration is sought from the Commission within 20 days after service of notice of the action, unless a different time period is specified in this chapter or in the act.

52 Pa. Code § 5.44(a).

In considering the appeal from Staff Action, in compliance with Commission Regulations, Section 332(a) of the Code, 66 Pa.C.S. § 332(a), provides that the party seeking affirmative relief from the Commission has the burden of proof. In this proceeding, the Respondent is the party seeking affirmative relief from the Commission. Therefore, the Respondent is the party with the burden of proof. *See Application of 610 Hauling, LLC, t/a College Hunks Hauling Junk, for the right to begin to transport, as a common carrier, by motor vehicle, household goods in use, from points in the counties of Chester, Delaware, Montgomery, Philadelphia, and Bucks, to points in Pennsylvania*, Docket Nos. A-2012-2334103 and A-8915269 (Order entered November 5, 2015), citing *Se-Ling Hosiery, Inc. v. Margulies*, 70 A.2d 854 (Pa. 1950).

In *Se-Ling Hosiery v. Margulies*, *supra*, the Pennsylvania Supreme Court held that the term "burden of proof" means a duty to establish a fact by a preponderance

of the evidence. The term “preponderance of the evidence” means that one party has presented evidence that is more convincing, by even the slightest degree, than the evidence presented by the opposing party. Additionally, the Commission must ensure that the decision is supported by substantial evidence in the record. The Pennsylvania appellate courts have defined substantial evidence to mean such relevant evidence that a reasonable mind may accept as adequate to support a conclusion; more is required than a mere trace of evidence or a suspicion of the existence of a fact sought to be established. *Application of 610 Hauling, LLC, t/a College Hunks Hauling Junk, supra*, citing *Norfolk & Western Railway Co. v. Pa. PUC*, 413 A.2d 1037 (Pa. 1980); *Murphy v. Pa. Dept. of Public Welfare, White Haven Center*, 480 A.2d 382 (Pa. Cmwlth. 1984).

B. Petition

In the Petition, Go Green insists that: (1) it did not receive the *April 2024 Tentative Order*; (2) it has consistently paid for its insurance; and (3) it was unaware of any issues. Go Green also states that at no point did it operate without insurance, and that it was under the understanding that its insurance carrier, Progressive Commercial, had duly filed the Form E with the Commission. Go Green attached to its Petition a copy of the insurance coverage it has obtained from Progressive Commercial. Go Green avers that its insurance carrier has confirmed that an error occurred on its end resulting in the failure to file the required form. Additionally, Go Green states that a new copy of Form E has been sent to the Commission online. For relief, Go Green requests reconsideration of the Commission’s decision to cancel its authority. Petition at 1.

C. Disposition

In considering this Petition, we are not required to consider, expressly or at length, each and every contention raised by a party to our proceedings. *University of Pennsylvania v. Pa. PUC*, 485 A.2d 1217 (Pa. Cmwlth. 1984). Any argument that is not

specifically addressed herein shall be deemed to have been duly considered and denied without further discussion.

Based on our review of the Respondent's Petition and the associated case documents, we will grant the Petition. Our Regulation at 52 Pa. Code § 1.15(a)(1), gives us authority to extend a deadline, after the deadline has passed, where reasonable grounds are shown for the failure to act. Go Green states that a new copy of Form E has been sent to the Commission online; however, the Commission's records do not indicate receipt of such an insurance document. Under the specific circumstances of the instant case, rather than canceling the operating authority, we deem it reasonable to extend the deadline and to provide Go Green with an additional thirty (30) days to have its insurance company submit the appropriate proof of insurance, consistent with this Opinion and Order. *See, 52 Pa. Code § 1.15(a)(1); Application of Woodrow Cothran, Jr., t/a Moving Others Around Safely*, Docket No. A-2019-3011840 (Opinion and Order entered April 30, 2020).

As noted, the Respondent claims to have proof of insurance, which appears to be attached to the Petition. However, the Commission's records do not indicate that the Respondent's insurance carrier filed it with the Commission. The averments raised by the Respondent in its Petition indicate that Go Green has attempted to take action to remedy its error. Therefore, we find that an outright cancelation of its operating authority is not warranted in this instance and at this time. We note that some insurance companies may not participate in the electronic filing system, as that is up to the company. In cases where an insurance company does not participate in the electronic filing system, the insurance company may mail the proof of insurance via regular mail, either directly from the underwriter, or in some cases, the agent. In this case, given that the Respondent has tried to comply, but the insurance company appears to have inadvertently failed to file proof of insurance with the Commission, we will afford the Respondent with an additional thirty (30) days from the date of the entry of this Opinion and Order to have its

insurance company file the appropriate insurance information, Form E, with the Commission.³

We also will remind the Respondent that the Commission has long held that while we recognize that the carrier does not have direct control over these filings and must, in large measure, rely on the representations made by the insurance agent/broker that the matter is being handled in a timely and accurate way, it is the carrier, as the regulated entity, that remains ultimately responsible for adherence to the requirements of the Code and the Commission's Regulations and, therefore, must take every step necessary to assure that the filing will be made in a timely manner. *See, e.g., Pa. PUC Bureau of Investigation and Enforcement v. Phillip J. and John M. Mertz, t/a Mertz's*, Docket No. C-2021-3024313 (Opinion and Order entered November 18, 2021); *Pa. PUC Bureau of Transportation and Safety v. Stephan & Son Trucking, Inc.*, Docket No. C-2011-2237981 (Order entered September 23, 2011) (though the failure to file evidence of insurance was the admitted fault of the agent, the agent's requested waiver of the fine was denied as the certificate holder is ultimately responsible, and no grounds were presented to overturn the conclusions of the Secretarial Letter); *Pa. PUC, Bureau of Transportation and Safety v. Cheryl Wilson*, Docket No. C-2010-2165302 (Order entered February 25, 2011) (*Wilson*) (while the carrier's insurer ultimately filed untimely evidence of insurance, the certificated carrier remains the responsible party and the facts presented indicated that the carrier twice ignored advice from PUC staff to heed the complaint).

For the reasons set forth above, we will conditionally rescind the *June 2024 Secretarial Letter*, pending compliance consistent with this Opinion and Order. Accordingly, we will grant the Petition and provide Go Green thirty (30) days from the

³ As noted above, Go Green Taxi was also advised that it must comply with that all unpaid fines or assessments accrued while it had operating authority. *June 2024 Secretarial Letter* at 1.

entry of this Opinion and Order to either have its insurance provider file proof of insurance in accordance with our Regulations, or to find a provider who will comply with the Commission's requirements. Additionally, per the *June 2024 Secretarial Letter*, Go Green must further comply with any unpaid fines or assessments accrued while it had operating authority to be eligible for reinstatement. *June 2024 Secretarial Letter* at 1. Failure of the Respondent to comply with this Opinion and Order will result in the *June 2024 Secretarial Letter* remaining in effect and being the final action of the Commission.

Conclusion

For the reasons discussed herein, we will grant the Petition, conditionally rescind the *June 2024 Secretarial Letter*, and refer this matter to TUS for such further action as may be warranted, consistent with this Opinion and Order; **THEREFORE,**

IT IS ORDERED:

1. That the Petition for Reconsideration from Staff Action, filed by Go Green Taxi LLC on July 17, 2024, at Docket No. A-2015-2504430, is granted, consistent with this Opinion and Order.
2. That the Secretarial Letter issued on June 25, 2024, at Docket No. A-2015-2504430, is conditionally rescinded consistent with this Opinion and Order.
3. That the matter is referred to the Commission's Bureau of Technical Utility Services for such further action as may be deemed necessary, consistent with this Opinion and Order.

4. That within thirty (30) days of the entry date of this Opinion and Order, Go Green Taxi LLC shall cause its insurance company to file the required proof of insurance with the Commission necessary to operate as taxi in the Commonwealth of Pennsylvania.

5. That upon compliance of Ordering Paragraph No. 4 above, and any other requisite compliance of the Secretarial Letter issued on June 25, 2024, at Docket No. A-2015-2504430, the Secretarial Letter issued on June 25, 2024, at Docket No. A-2015-2504430 will be rescinded.

6. That upon the failure of Go Green Taxi LLC to comply with Ordering Paragraph No. 4 above, the Secretarial Letter issued on June 25, 2024, canceling Go Green Taxi LLC's operating authority, shall become the Commission's final decision with no further action from the Commission.

BY THE COMMISSION,

A handwritten signature in black ink, appearing to read "Rosemary Chiavetta". The signature is fluid and cursive, written over a white background.

Rosemary Chiavetta
Secretary

(SEAL)

ORDER ADOPTED: November 7, 2024

ORDER ENTERED: November 7, 2024