

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission,	:	
Bureau of Investigation and Enforcement	:	
	:	
v.	:	C-2024-3049503
	:	
On Time Transit Inc.	:	

INITIAL DECISION

Before
Eranda Vero
Administrative Law Judge

INTRODUCTION

This Initial Decision grants the Motion for Default Judgment filed by the Bureau of Investigation and Enforcement (I&E) of the Pennsylvania Public Utility Commission (Commission). On Time Transit Inc. (Company or Respondent), did not file an answer to I&E’s assessment-related Formal Complaint (Complaint); therefore, the allegations raised in the Complaint are deemed admitted. In addition, the Respondent failed to appear at the hearing scheduled in this matter. This Decision orders the Company to pay a cumulative civil penalty in the amount of \$1,200.

HISTORY OF THE PROCEEDINGS

On June 10, 2024, I&E filed a Complaint against On Time Transit Inc. The Complaint contained a Notice to Plead advising Respondent that it must file an Answer

within 20 days of service of the Complaint. The Complaint was served upon Respondent on June 11, 2024. The Complaint was served by First-Class mail at 4679 Darrah Street, Philadelphia, PA 19124, which is the last known address that Respondent provided to the Commission, as well as by electronic mail at the e-mail address provided by Respondent to the Commission.

The Complaint avers that Respondent violated Section 510(b) of the Public Utility Code, 66 Pa.C.S. § 510(b), by failing to submit assessment reports for the years 2021 and 2022. The Complaint also avers that Respondent violated Section 510(c) of the Public Utility Code, 66 Pa.C.S. § 510(c), by failing to satisfy its 2022-2023 and 2023-2024 Fiscal Year Assessments. Accordingly, I&E requests that Respondent be directed to file assessment reports on a going-forward basis, and that Respondent be directed to pay a civil penalty of \$1,294, which consists of its cumulative outstanding assessment balance of \$94 and a total civil penalty of \$1,200 for the above-described violations. In the event the Respondent fails to pay any outstanding assessment and civil penalty ordered by the Commission, I&E also requests the Commission cancel the Respondent's Certificate of Public Convenience and certify an order to the Pennsylvania Department of Transportation, suspending or revoking any motor vehicle registrations that were used under On Time Transit Inc.'s operating authority.

Respondent did not file an answer to the Complaint.

On July 24, 2024, I&E filed a Motion for Default Judgment (Motion) pursuant to 52 Pa. Code § 5.103, arguing that, due to Respondent's failure to answer the Complaint and pursuant to Section 5.61(c) of the Commission's regulations, the Respondent may be deemed in default, and the relevant facts stated in the Complaint may be deemed admitted. 52 Pa. Code § 5.61(c). The Motion was accompanied by a Notice to Plead advising Respondent that it must file a written response within 20 days of service of the Motion.

Respondent did not file a response to the Motion.

On July 30, 2024, a Call-In Telephone Initial Hearing Notice was issued scheduling a hearing for September 3, 2024, and assigning this matter to me.

On August 9, 2024, I issued a Prehearing Order reminding the parties of the time and date of the hearing, informing them of the procedures applicable to this proceeding, and directing the submission of documents prior to the hearing.

Both the Hearing Notice and the Prehearing Order were served on the Respondent via First-Class mail at the last known address that Respondent provided to the Commission, as well as by electronic mail at the e-mail address provided by Respondent to the Commission. Neither the Hearing Notice nor the Prehearing Order were returned as undeliverable.

The initial hearing convened as scheduled on September 3, 2024. Grant Rosul, Esq., appeared representing the Complainant, I&E. Neither the Respondent nor counsel for the Respondent appeared at the hearing. The Respondent was given an additional 10-15 minutes to call in to the hearing but failed to do so.

At the hearing, Mr. Rosul renewed his Motion for Default Judgement. In addition, Mr. Rosul presented the testimony of Amy Zuvich, who is the Chief of Finance and Assessment in the Commission's Bureau of Administration. The Complainant sponsored nine exhibits (I&E Exhibits 1-9), which were admitted into the record.

To date there has been no communication from the Respondent explaining its absence from the scheduled hearing. The record in this matter closed upon receipt of

the hearing transcript on September 29, 2024. I&E’s Motion for Default Judgement will be granted in the ordering paragraphs below.

FINDINGS OF FACT

1. Complainant is the Pennsylvania Public Utility Commission’s Bureau of Investigation and Enforcement, the entity established by statute to prosecute complaints against public utilities. 66 Pa.C.S. § 308.2(a)(11); *see also Implementation of Act 129 of 2008 Organization of Bureaus and Offices*, Docket No. M-2008-2071852 (Final Procedural Order entered Aug. 11, 2011).

2. Respondent is On Time Transit, Inc., which maintains its principal place of business at 4679 Darrah St, Philadelphia, PA 19124. Attention: Bassam & Basim Salaheldein. Complaint ¶ 4.

3. Respondent is a “public utility” as that term is defined at 66 Pa.C.S. § 102, as it is engaged in the transporting persons in the Commonwealth of Pennsylvania for compensation.

4. The Commission issued Respondent a Certificate of Public Convenience on or about May 23, 2017, at A-2016-2549947, for approval to transport, as a common carrier, by motor vehicle, persons in paratransit service, from points in the City and County of Philadelphia, and return. Complaint ¶ 6.

Failure to File Assessment Report Calendar Year 2021

5. On or about February 9, 2022, the Commission mailed to Respondent an assessment report for Respondent to report its gross intrastate operating revenues for the 2021 calendar year. Complaint ¶ 11.

6. 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, 2022. Complaint ¶¶ 12; I&E Exhibit 1.

7. Respondent did not complete and return its calendar year 2021 assessment report before March 31, 2022.

8. On June 8, 2022, the Commission mailed to Respondent, by First-Class mail, a “Failure to Submit Assessment Report” letter. Complaint ¶¶ 13.

9. The June 8, 2022 letter informed Respondent that it was obligated to file a completed assessment report for the 2021 calendar year within 20 days of the letter and that if it failed to do so the matter would be referred to the Bureau of Investigation and Enforcement for prosecution. Complaint ¶¶ 13.

10. Respondent failed to submit its assessment report for the 2021 calendar year to the Commission. Complaint ¶¶ 13.

Failure to File Assessment Report 2021

11. 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.

12. 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; I&E Exhibit 2.

13. Respondent did not complete and return its calendar year 2022 assessment report before March 31, 2023.

14. On May 3, 2023, the Commission mailed to Respondent, by First-Class mail, a failure to submit assessment report letter. Complaint ¶ 17.

15. The May 3, 2023 letter informed Respondent that it was obligated to file a completed assessment report for the 2022 calendar year within 20 days of the letter and that if it failed to do so the matter would be referred to the Bureau of Investigation and Enforcement for prosecution. Complaint ¶ 17.

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

A. Failure to Pay Fiscal year 2022-2023 Assessment Invoice

17. On or about September 9, 2022, the Commission mailed to Respondent, by First-Class mail, an assessment invoice for the July 1, 2022, to June 30, 2023, Fiscal Year (“2022-2023 Fiscal Year”) that was based, in part, on Respondent’s estimated revenues for the 2021 calendar year due to Respondent’s failure to file an assessment report stating its 2021 calendar year revenues. Complaint ¶19; I&E Exhibit 3.

18. Respondent’s assessment for the 2022-2023 Fiscal Year was \$55. Complaint ¶19; I&E Exhibit 3.

19. 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 of receipt of the notice. Complaint ¶20; I&E Exhibit 4.

20. Although there is no indication that Respondent did not receive the assessment invoice, on or about October 26, 2022, the Commission again mailed to Respondent, this time by certified mail, another copy of the past due assessment invoice for the 2022-2023 Fiscal Year. Complaint ¶ 21; I&E Exhibit 5.

21. 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 of receipt of the notice. Complaint ¶ 22; I&E Exhibit 5.

22. On or about December 13, 2022, the Commission mailed to Respondent, by First-Class mail, a delinquent assessment notice notifying the Respondent of its past due assessment balance of \$55 for the 2022-2023 Fiscal Year. Complaint ¶ 23.

23. The delinquent assessment notice informed Respondent that the assessment must be paid within 20 days of the date of the letter and the consequences of failing to do so. Complaint ¶ 24.

24. On or about May 8, 2023, the Commission's Law Bureau contacted Respondent and informed them of their outstanding assessment balance in the amount of \$55. Complaint ¶ 25.

25. On or about August 31, 2023, the Commission mailed to Respondent, by First-Class mail, a third copy of the past due assessment invoice for the 2022-2023 Fiscal Year. Complaint ¶ 26; I&E Exhibit 6.

26. 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 of receipt of the notice.

Complaint ¶ 27.

27. There is no indication that the October 26, 2022, assessment invoice was not delivered. Complaint ¶ 28.

28. To ensure that the Respondent was provided with the 2022-2023 Fiscal Year Assessment Invoice, on or about February 27, 2024, the Commission mailed to Respondent, by certified mail, another copy of the 2022-2023 Fiscal Year Assessment Invoice, which noted that the Respondent's past due assessment was \$55. Complaint ¶ 28.

29. 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 of receipt of the notice. Complaint ¶ 29.

30. The Commission received neither objections nor timely payment from Respondent to the assessment amount set forth in the 2022-2023 Fiscal Year Assessment Invoice. Complaint ¶ 23.

A. Failure to Pay Fiscal year 2023-2024 Assessment Invoice

31. 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 on Respondent's estimated revenues for the 2022 calendar year due to Respondent's failure to file an assessment report stating its revenues for the 2022 calendar year. Complaint ¶ 34; I&E Exhibit 7.

32. Respondent's assessment was \$39. Complaint ¶ 34; I&E Exhibit 7.

33. 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 of receipt of the notice. Complaint ¶ 35; I&E Exhibit 8.

34. The Commission received neither objection nor timely payment from Respondent to the assessment amount set forth in the 2023-2024 Fiscal Year Assessment Invoice. Complaint ¶ 36.

35. 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 \$94, comprised of the \$39 for the 2023-24 Fiscal Year and \$55 for the prior 2022-2023 fiscal year. Complaint ¶ 37.

36. 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 ¶ 38.

37. Although there is no indication that the Respondent did not receive the September 8, 2023 assessment invoice, on or about February 27, 2024, the Commission again mailed to Respondent, by certified mail, a second copy of the 2023-2024 Fiscal Year Assessment Invoice. Complaint ¶ 39; I&E Exhibit 9.

38. Attached to the February 27, 2024 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 of receipt of the notice. Complaint ¶ 40.

39. There is no indication that the February 27, 2024 assessment invoice was not delivered. Complaint ¶ 41.

40. The Commission received neither objections nor timely payment from Respondent to the assessment amount set forth in the February 27, 2024 assessment invoice. Complaint ¶ 43.

Current Complaint

41. On or about June 10, 2024, I&E filed a Complaint against the Respondent averring that Respondent violated Section 510(b) of the Public Utility Code, 66 Pa.C.S. § 510(b), by failing to submit assessment reports for the calendar years 2021 and 2022. The Complaint also avers that Respondent violated Section 510(c) of the Public Utility Code, 66 Pa.C.S. § 510(c), by failing to satisfy its 2022-2023 and 2023-2024 Fiscal Year Assessments.

42. As relief, I&E requested that Respondent be directed to file assessment reports on a going-forward basis, and that Respondent be directed to pay a civil penalty of \$1,294, which consists of its cumulative outstanding assessment balance of \$94 and a total civil penalty of \$1,200 for the above-described violations. In the event the Respondent fails to pay any outstanding assessment and civil penalty ordered by the Commission, I&E also requested the Commission cancel the Respondent's Certificate of Public Convenience and certify an order to the Pennsylvania Department of Transportation, suspending or revoking any motor vehicle registrations that were used under On Time Transit Inc.'s operating authority.

43. The Complaint was served upon Respondent on June 11, 2024.

44. The Complaint was served on the Respondent by First-Class mail at

4679 Darrah Street, Philadelphia, PA 19124, which is the last known address that Respondent provided to the Commission. Tr. 4.

45. The Complaint was also served on the Respondent by electronic mail at the e-mail address provided by Respondent to the Commission. Tr. 4.

46. The Complaint was not returned to the Commission as undeliverable.

47. The Complaint contained a Notice to Plead advising Respondent that it must file an Answer within 20 days of service of the Complaint.

48. Respondent did not file an answer to the Complaint.

49. On July 24, 2024, I&E filed a Motion for Default Judgment pursuant to 52 Pa. Code § 5.103, arguing that, due to Respondent's failure to answer the Complaint and pursuant to Section 5.61(c) of the Commission's regulations, the Respondent may be deemed in default, and the relevant facts stated in the Complaint may be deemed admitted pursuant to 52 Pa. Code § 5.61(c).

50. Respondent did not file a response to the Motion.

51. On June 27, 2024, the Commission received payments from the Respondent satisfying its outstanding assessment invoices for the 2022-2023 and 2023-2024 Fiscal Years. Tr. 23, 26.

52. On July 30, 2024, a Call-In Telephone Initial Hearing Notice was issued scheduling a hearing for September 3, 2024.

53. On August 9, 2024, a Prehearing Order was issued reminding the parties of the time and date of the hearing, informing them of the procedures applicable to this proceeding, and directing the submission of documents prior to the hearing.

54. Both the Hearing Notice and the Prehearing Order were served on the Respondent via First-Class mail at the last known address that Respondent provided to the Commission, as well as by electronic mail at the e-mail address provided by Respondent to the Commission.

55. Neither the Hearing Notice nor the Prehearing Order were returned as undeliverable.

56. Neither the Respondent nor a counsel for the Respondent appeared at the hearing.

57. Respondent did not request a continuance of the September 3, 2024 hearing.

DISCUSSION

The Complainant, I&E, was established by statute to prosecute complainants against public utilities. 66 Pa.C.S. § 308.2(a)(11); *see also Implementation of Act 129 of 2008 Organization of Bureaus and Offices*, Docket No. M-2008-2071852 (Final Procedural Order entered Aug. 11, 2011). The Respondent is a “public utility” as defined by 66 Pa.C.S. § 102, as it was engaged in the transporting of persons in the Commonwealth of Pennsylvania for compensation. On or about May 23, 2017, the Commission issued On Time Transit Inc. a Certificate of Public Convenience at A-2016-2549947.

In a case involving an alleged violation of a determination or order of the Commission by a public utility, the burden of proof is upon the public utility to show that it has complied with the determination or order of the Commission. 66 Pa.C.S. § 315(b). As a recipient of a Commission-issued certificate of public convenience, the Respondent has a duty to comply with Commission orders and regulations. 66 Pa.C.S. § 501(c).

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. 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 assessment on time.

The Commission explained the importance of public utilities complying with Section 510 in its tentative Order at *Cancellation of Certificates of Public Convenience for Motor Carriers; Failure to Pay Assessment*, Docket No. M-2020-3021634 (Order entered Sept. 17, 2020) (2020 *Cancellation Order*):

The Public Utility Code requires that by March 31 each year, every public utility must file a report detailing its gross intrastate operating revenue for the preceding assessment calendar year. 66 Pa. C.S. § 510(b). This report is essential for the Commission to fund its operations and to properly allocate assessment costs among the regulated utility community. *Id.*

For each fiscal year, the Commission determines the total assessment for regulatory expenses, which is allocated to, and paid by, public utilities pursuant to the methodology set forth in the Public Utility Code. 66 Pa.C.S. §§ 510(a), (b). The Commission provides notice of the amount lawfully assessed against a utility and requires the utility to pay that amount within thirty (30) days of receipt of the notice. 66 Pa.C.S. § 510(c). The Public Utility Code authorizes the Commission to revoke a utility's Certificate of Public

Convenience (CPC) for failure to pay the assessment within the time prescribed. *Id.*

2020 *Cancellation Order*, at 1.

The Respondent did not file an answer to either I&E's Complaint or 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). Additionally, the Commonwealth Court has upheld the Commission's authority to sustain complaints that are not answered within twenty days. *Fusaro v. Pa. Pub. Util. Comm'n*, 382 A.2d 794 (Pa. Cmwlth. 1978). Therefore, the allegations raised in the Complaint will be deemed admitted.

In addition, Respondent failed to appear at the September 3, 2024 hearing for which it was properly notified. Consequently, the Respondent failed to carry the burden of proving that it has complied with the determination or order of the Commission. 66 Pa.C.S. § 315(b).

On the contrary, the evidence presented by I&E in its Complaint and at the hearing supports finding that the Respondent violated Sections 510(b) and (c) and that a penalty under Section 3301 is appropriate. The Respondent failed to file assessment reports for the 2021 and 2022 calendar years, in violation of Section 510(b). The Respondent also failed to timely satisfy its 2022-2023 and 2023-2024 Fiscal Year Assessments, in violation of Section 510(c). The Commission received no objections from the Respondent to the assessments. Ms. Zuvich testified that the payment for Respondent's 2022-2023 Fiscal Year Assessment Invoice was due in mid-October of 2022, whereas the payment for Respondent's 2023-2024 Fiscal Year Assessment Invoice was due in mid-October of 2023. Tr. 23, 26. However, she explained that the

Respondent only made those payments on June 27, 2024, after I&E filed the present Complaint in this matter. *Id.* Although the Commission received on June 27, 2024, payments from the Respondent satisfying its outstanding assessment invoices for the 2022-2023 and 2023-2024 Fiscal Years, the Respondent did not pay the civil penalty of \$1,200 that was sought in the Complaint for its failure to file assessment reports for the 2021 and 2022 calendar years, as well as its failure to pay its 2022-2023 and 2023-2024 Fiscal Year Assessments in a timely manner.

Section 3301 of the Public Utility Code, 66 Pa.C.S. § 3301, authorizes the Commission to impose civil penalties on any public utility up to \$1,000 per violation for the failure to file or pay the annual assessment on time. Each and every day of continuance of the violation is a separate offense. 66 Pa.C.S. § 3301(b).

In the instant case, I&E asserts its proposed civil penalties are consistent with past Commission decisions and sufficient to deter future violations. Tr. 27-29. I&E proposes a penalty of \$1,000 (\$500 per count) for the two violations of Section 510(b) of the Code and a penalty of \$200 (\$100 per count) for the two violations of Section 510(c) of the Code. *See*, Complaint at 9-10, n.1; *see also*, Tr. 27-29.; *Pa. Pub. Util. Comm'n v. Jadon Trucking, Inc.*, Docket No. C-2021-3028563 (Opinion and Order entered Dec. 8, 2023) (*Jadon Trucking*); *Pa. Pub. Util. Comm'n v. Moore Family Holdings, LLC*, Docket No. C-2021-3029489 (Order entered Apr. 14, 2022); *Pa. Pub. Util. Comm'n v. Safety 1st Paratransit Inc.*, Docket No. C-2021-3029522 (Order entered Apr. 14, 2022); *Pa. Pub. Util. Comm'n v. JB Jr. Trucking LLC*, Docket No. C-2021- 3029458 (Order entered Feb. 24, 2022).

Further, I&E asserts this amount is warranted based on the following three factors: (1) the type of violations in the instant proceeding; (2) the amount of Respondent's outstanding assessment balance related to the 2022-2023 and 2023-2024 Fiscal Years; and (3) Respondent's poor compliance history with the Public Utility Code

and Commission regulations for three years prior to the date of the filing of the instant Complaint. *See*, Complaint ¶ 46, n.2.

The factors and standards to be utilized when determining whether a fine for violating a Commission order, regulation or statute is appropriate are set forth in 52 Pa. Code § 69.1201. The Commission has determined that a civil penalty for failing to pay an outstanding assessment is based on a review of: (1) a respondent's compliance history for the three-year period prior to the date I&E files its formal complaint; (2) the need to deter future violations; and (3) prior Commission decisions in similar situations pursuant to 52 Pa. Code §§ 69.1201(c)(6), (8), and (9). *Pa. Pub. Util. Comm'n v. Moore Family Holdings, LLC*, Docket No. C-2021- 3029489 (Opinion and Order entered Apr. 14, 2022) (“*Moore Family Holdings*”).

I&E contends that a review of the Respondent’s applicable three-year compliance history demonstrates that the Respondent does not have an acceptable compliance history. I&E points to the Respondent’s failure to file assessment reports stating its gross intrastate revenue as required under 66 Pa.C.S. § 510(b) for two of the past three calendar years and its assessments for the past two fiscal years as required under 66 Pa.C.S. § 510(c). *See*, Complaint ¶ 46, n.3; Tr. 28-29.

Based on my review of the record, the averments in I&E’s Complaint, and the Respondent’s failure to reply to either the Complaint or the Motion, I conclude that granting I&E’s motion is warranted. The Respondent was provided with adequate notice of the alleged violations against it and had the opportunity to respond to the Complaint and participate in the hearing. Under the circumstances of the instant case, granting I&E’s Motion and sustaining the Complaint is appropriate.

Failure to file reports (66 Pa.C.S. § 510(b))

Regarding failure of a company to file annual assessment reports, the Commission has directed that where the company's yearly assessment amount is less than or equal to \$500, and the company has a poor compliance history, the appropriate civil penalty is \$500. *Jadon Trucking*.

Here, the Respondent owes \$55 for its 2022-2023 Fiscal Year Assessment, \$39 for its 2023-2024 Fiscal Year Assessment, which are both less than \$500. Also, as discussed above, the Respondent has an unacceptable compliance history. Thus, I&E's requested penalty of \$1,000 total for failure to file its 2022 and 2023 calendar year Assessment Reports (\$500 per report) is appropriate and consistent with Commission precedent. *Id.*

Failure to pay (66 Pa.C.S. § 510(c))

Regarding failure of a company to pay assessments, the Commission has directed that where a company's past-due assessment amount is less than or equal \$350, and the company has an unfavorable compliance history, the appropriate civil penalty is \$100 per unpaid assessment. *Jadon Trucking*.

Here, Respondent's past due assessment is \$55 for the Fiscal Year 2022-2023 and \$39 for Fiscal Year 2023-2024, totaling \$94. Also, as discussed above, the Respondent has a poor compliance history with the Commission. Because the past due assessments are less than \$350 and the Respondent has a poor compliance history, a civil penalty of \$100 for each unpaid assessment is appropriate. *Id.*

The total level of civil penalty to be assessed against the respondent for its violations of Sections 510(b) and (c) of the Code is \$1,200. It is anticipated that this

level of civil penalty will serve as a sufficient deterrent against future violations by the Respondent.

Accordingly, I&E's Motion will be granted, and this decision will order payment of a fine of \$500 each for the two violations of Section 510(b) (\$1,000), plus \$100 each for the two violations of Section 510(c) (\$200), for a total of \$1,200. If the Respondent does not make payment of the imposed civil penalty within thirty days of the date of entry of a Final Commission Order, the Public Utility Commission's Bureau of Technical Utility Services will be directed to revoke Respondent's Certificate to operate, the matter will be sent for collection and the Commission will pursue all remedies, provided by law, to ensure timely compliance with the Code, Commission regulations and orders, including initiation of further enforcement proceedings. 66 Pa.C.S. §§ 504-6, 3301-2; Pa.R.A.P. 3761.

CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the parties to and the subject matter of this proceeding. 66 Pa.C.S. §§ 501, 510, 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. In a case involving an alleged violation of a determination or order of the Commission by a public utility, the burden of proof shall be upon the public utility to show that it has complied with the determination or order of the Commission. 66 Pa.C.S. § 315(b).

4. 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).

5. The Commission has authority to sustain complaints that are not answered within twenty days. *Fusaro v. Pa. Pub. Util. Comm'n*, 382 A.2d 794 (Pa. Cmwlth. 1978).

6. As the holder of a Commission-issued certificate of public convenience, the Respondent has a duty to comply with Commission orders and regulations. 66 Pa.C.S. § 501(c).

7. A public utility is required to annually file a statement showing its gross intrastate operating revenues for the preceding calendar year. 66 Pa.C.S. § 510(b).

8. The Respondent's failure to submit its completed Assessment Reports for the calendar years of 2021 and 2022 are violations of 66 Pa.C.S. § 510(b).

9. A public utility is required to pay the Commission's assessment invoices within 30 days of having received notice from the Commission of the amounts assessed or challenge its assessment within 15 days after receiving notice of the assessment. 66 Pa.C.S. § 510(c).

10. The Respondent's failure to satisfy its 2022-2023 and 2023-2024 Fiscal Year assessments within 30 days of receipt of each assessment invoice are violations of 66 Pa.C.S. § 510(c).

11. If any regulated entity fails to comply with any Commission regulation it shall forfeit and pay to the Commonwealth a sum not exceeding \$1,000.00 per day of violation. 66 Pa.C.S. § 3301.

12. A civil penalty for failing to pay an outstanding assessment is based on a review of: (1) a respondent's compliance history for the three-year period prior to the date I&E files its formal complaint; (2) the need to deter future violations; and (3) prior Commission decision in similar situations pursuant to 52 Pa. Code §§ 69.1201(c)(6), (8), and (9). *Pa. Pub. Util. Comm'n v. Jadon Trucking, Inc.*, Docket No. C-2021-3028563 (Opinion and Order entered Dec. 8, 2023); *Pa. Pub. Util. Comm'n v. Moore Family Holdings, LLC*, Docket No. C-2021-3029489 (Opinion and Order entered Apr. 14, 2022).

ORDER

THEREFORE,

IT IS ORDERED:

1. That the Motion for Default Judgment filed by the Bureau of Investigation and Enforcement of the Pennsylvania Public Utility Commission against On Time Transit Inc. at Docket No. C-2024-3049503, is hereby granted.

2. That the Formal Complaint filed by the Bureau of Investigation and Enforcement of the Pennsylvania Public Utility Commission against On Time Transit Inc. at Docket No. C-2024-3049503, is hereby sustained.

3. That within thirty (30) days of the entry date of the Commission's final Order in this matter, On Time Transit Inc. shall remit a civil penalty in the amount of \$1,200.00, 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
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120

4. That On Time Transit Inc. shall report its gross intrastate operating revenue for the calendar years 2021, 2022, and all future calendar years, pursuant to the requirements at 66 Pa.C.S. § 510, 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 shall cancel the Certificate of Public Convenience at Docket No. A-2016-2549947 if payment of the civil penalty (\$1,200.00) is not received from On Time Transit Inc. within thirty (30) days after service of the Public Utility Commission's final Order in this matter.

6. That, if On Time Transit Inc. fails to make the payment required by Ordering Paragraph No. 3 above within thirty (30) days of the entry date of the final Order of the Commission, 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.

7. That, if On Time Transit Inc. fails to make the payment required by Ordering Paragraph No. 3 above within thirty (30) days of the entry date of the final Order of the Commission, it is further ordered that the Commission will send a copy of this Order to the Pennsylvania Department of Transportation for the suspension or revocation of vehicle registrations that were used under On Time Transit Inc.'s operating authority.

8. That a copy of this Decision be served on the Commission's Bureau of Technical Utility Services and the Bureau of Administrative Services, Assessment Section.

9. That after On Time Transit Inc. remits \$1,200.00 as required by Ordering Paragraph No. 3, the Secretary's Bureau shall mark this proceeding closed.

Date: December 30, 2024

/s/
Eranda Vero
Administrative Law Judge