



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

BUREAU OF
INVESTIGATION
&
ENFORCEMENT

July 28, 2025

Via Electronic Filing

Matthew L. Homsher, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120

Re: Bureau of Investigation and Enforcement v. Best Taxi, LLC
Bureau of Investigation and Enforcement v. Good Cab, LLC
Consolidated Cases
Docket Nos. C-2022-3029070
C-2022-3029079

I&E Reply to Exceptions

Dear Secretary Homsher:

Enclosed for electronic filing please find the Reply of the Bureau of Investigation and Enforcement to the Exceptions of Best Taxi, LLC and Good Cab, LLC (“Respondents”) with regard to 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 'G. Rosul', is written over a light blue circular stamp.

Grant Rosul
Prosecutor
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GR/ac
Enclosures

cc: Administrative Law Judge Gail M. Chiodo (via email – gchiodo@pa.gov)
Office of Special Assistants (via email – ra-OSA@pa.gov)
Per Certificate of Service

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Bureau of Investigation and Enforcement	:	
	:	
v.	:	
	:	
Best Taxi, LLC	:	Docket Nos. C-2022-3029070
	:	C-2022-3029079
Bureau of Investigation and Enforcement	:	
	:	
v.	:	Consolidated Cases
	:	
Good Cab, LLC	:	

**BUREAU OF INVESTIGATION AND ENFORCEMENT’S
REPLY TO THE EXCEPTIONS OF
BEST TAXI, LLC AND GOOD CAB, LLC**

Grant Rosul
Prosecutor
PA Attorney ID No. 318204

Pennsylvania Public Utility Commission
Bureau of Investigation and Enforcement
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120

Dated: July 28, 2025

I. INTRODUCTION

On June 18, 2025, the Initial Decision of presiding Deputy Chief Administrative Law Judge (“ALJ”) Gail M. Chiodo was issued in the instant proceeding. The Initial Decision sustains the Bureau of Investigation and Enforcement’s (“I&E”) Complaints and imposes civil penalties on the carriers consistent with the Commission’s regulations for the violations at issue. The presiding ALJ rejected Best Taxi, LLC’s and Good Cab, LLC’s (“Respondents”) constitutional challenge to the regulation of the Pennsylvania Public Utility Commission (“Commission”) at 52 Pa. Code § 29.505(b)(1) (relating to the criminal history of employees) (“Regulation”).

The presiding ALJ correctly found that Respondents lacked standing to facially challenge the constitutionality of the Regulation. The presiding ALJ properly concluded that Respondents claim represented a facial challenge rather than an “as-applied” challenge.¹ The presiding ALJ found no assertion by Respondents that the Regulation infringed upon the occupation of a call and demand carrier. No evidence was presented that Respondents were unable to hire qualified drivers because of the Regulation. The presiding ALJ correctly concluded that because Respondents’ challenge to the Regulation asserts the rights of third parties, they do not have standing.

On July 18, 2025, Respondents filed Exceptions to the June 18, 2025, Initial Decision of Deputy Chief ALJ Chiodo. Although the Exceptions are not numbered as required by 52 Pa. Code § 5.533(b),² Respondents primarily except to the Initial Decision’s conclusion that Respondents lacked standing to assert that the Regulation violated Article 1, § 1, of the

¹ Initial Decision at 25.

² 52 Pa. Code §5.533(b) (“Each exception must be numbered and identify the finding of fact or conclusion of law to which exception is taken and cite relevant pages of the decision. Supporting reasons for the exceptions shall follow each specific exception.”).

Pennsylvania Constitution.³ Respondents contend that they have standing because of a substantial, direct, and immediate interest in the subject matter of the litigation. Although the Respondents' argument in their brief focused on the right of individuals with certain criminal convictions to drive taxis, Respondents now assert that the Initial Decision overlooks Respondents' loss of discretion to select drivers. Respondents also claim that the Regulation also subjects them to punishment for violating the Regulation.

Respondents take issue with the carrier's loss of discretion in making hiring decisions, arguing that the Commission should not interfere via the Regulation with a carrier's determination as to whether a driver possesses the capability to provide safe service as a call or demand driver. Relying on rational basis scrutiny and employing the "plainly legitimate sweep" standard, Respondents argue the Regulation is facially invalid due to its evident deficiency. Respondents further argue that the loss of driver-hiring discretion by carriers as a result of the Regulation bears no rational relationship to the Commission's interest in protecting the public. Respondents assert that they have standing challenge the Regulation's facial unconstitutionality on this basis.

II. I&E REPLY TO RESPONDENTS' EXCEPTIONS

I&E fully supports the Initial Decision and respectfully submits that the record of the case, which includes on-the-record testimony and stipulated facts, supports the imposition of civil penalties, and the ALJ was correct in her determination that the Respondents lacked standing to pursue a facial challenge to the constitutionality of the Regulation.

Respondents lack standing to assert the constitutional right of their former employees to not be barred from driving a taxi on account of the employees' felony criminal convictions.

³ Respondents' Exceptions are untimely filed. I&E is objecting to the Exceptions being filed at this late date in a separate Motion to Strike.

Respondents conflate the right to pursue a lawful occupation with the right to employ persons.⁴ Respondents provide no precedent on the right to employ but rather frame their argument as a right to pursue a lawful occupation. By arguing for the right to employment, Respondents are arguing their case for the rights of employees, a third party, and therefore Respondents lack standing.

It is well settled that “[l]itigants typically lack standing to assert the rights of third parties.” United States v. Hansen, 1463 S. Ct. 1932, 1939 (2023). See also Kowalski v. Temer, 543 U.S. 125, 127 (2004) (Attorneys lack standing to assert rights of indigent defendants to challenge Michigan procedure on appointment of counsel for indigent criminal defendants); Warth v. Seldin, 422 U.S. 490, 499 (1975) (“[T]he plaintiff generally must assert his own legal rights and interest, and cannot rest his claim to relief on the legal rights or interests of third parties.”).

Even if the Respondents had standing to challenge 52 Pa. Code § 29.505(b)(1), the Regulation is constitutional.⁵ Statutes enacted by the General Assembly are presumptively valid and are held to be constitutional “unless it clearly, palpably and plainly violates the constitution.” West Mifflin Area School District v. Zahorchak, 607 Pa. 153, 163 (2010). Furthermore, any party who questions the constitutionality of a statute has the heavy burden of persuasion to counteract the presumption of being constitutional. Barrel of Monkeys, LLC v. Allegheny County, 39 A.3d 559, 536 (Pa. Commw. 2012). This framework also applies to regulations promulgated by the Commission. See Pocono Manor Investors, LP v. Pennsylvania Gaming

⁴ Exceptions at 8.

⁵ It should be noted that the ALJ also stated that “by raising a facial constitutional challenge to the Regulation at this level before me, the Companies are essentially requiring I&E to defend the legality of the Commission’s promulgation and adoption of the instant Regulation. Although I&E defended the Regulation as an alternative argument, in my view, the Commission, not I&E, is the proper party to defend against the Companies’ allegations that its Regulation is unconstitutional.” Id. at 29.

Control Bd., 592 Pa. 625 (2007) (“We presume, as we do with all statutes, that the Board intended its regulations to be constitutional.”).

The Regulation’s bar to employment in a regulated job role is analogous to similar statutory restrictions in state and federal law that are applicable to a wide range of positions. The purpose of the Regulation at bar, as well as the statutory restrictions on employment which have been upheld by other courts, is to ensure that the employed individual is trustworthy for positions where employment carries a high degree of responsibility to do the job with integrity.

Respondents’ contention that their loss of discretion in selecting employees fails as a facial constitutional challenge to the Regulation. The presiding ALJ correctly noted that “[a]rguably, every Regulation somehow impedes an owner’s discretion to act in some manner that they may otherwise want to act.”⁶ The instant Regulation has not impeded Respondents’ ability to continue operation as common carriers in accordance with their certificates of public convenience. The presiding ALJ acknowledged that Respondents provided no evidence that either company was unable to hire qualified drivers due to the Regulation.⁷

The right to work in a particular occupation is not a “fundamental right” and is therefore subject to rational basis review.⁸ The bar to employment as a taxi driver for individuals convicted of certain crimes bears a rational relationship to the interest of the Commission to protect the public using taxi services.

⁶ Initial Decision at 26 (“The Companies base their standing on their status as certificated carriers and that they were cited for violating the Regulation. However, the alleged constitutional violation they seek to assert is based on the guaranteed right under Art. I, § 1 to pursue a lawful occupation which, in the instant case, is the occupation of taxi driver, not the occupation of a call and demand carrier.”).

⁷ Id. (“Nowhere do I find where the Companies assert that the instant Regulation unlawfully impedes their abilities to pursue their desired occupation as call and demand carriers. For example, there is no evidence that the Companies are unable to hire qualified drivers because of the instant Regulation, thereby making it impossible for them to operate their Companies.”).

⁸ Nixon v. Commonwealth, 839 A.2d 277, 287 (Pa. 2003).

III. CONCLUSION

For the reasons set forth above, and for the reasons set forth in I&E's Main Brief, I&E respectfully submits that Respondents lack standing to assert the constitutional rights of former employees. Further, and in the alternate, if Respondents do have standing, the Regulation is constitutional because it is rationally related to the PUC's interests.

Respectfully submitted,



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Good Cab, LLC	:	

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the foregoing document upon the parties, listed below, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a party).

Service via Electronic Mail:

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