

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

Public Meeting held August 14, 2025

Commissioners Present:

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

Pennsylvania Public Utility Commission,
Bureau of Investigation and Enforcement

C-2024-3049873

v.

J J Serafin, Inc. t/a AAAA Limo &
AAA Transit

OPINION AND ORDER

BY THE COMMISSION:

Before the Pennsylvania Public Utility Commission (Commission) for consideration and disposition are the Exceptions filed by the Commission's Bureau of Investigation and Enforcement (I&E or Complainant) on February 10, 2025, to the Initial Decision (I.D.) of Administrative Law Judge (ALJ) F. Joseph Brady, issued on January 21, 2025, in the above-captioned matter. J J Serafin, Inc. t/a AAAA Limo & AAAA Transit (J J Serafin or Respondent or the Company) did not file Replies to

Exceptions in this matter. Upon consideration of the Exceptions, we shall grant them, in part, and modify the Initial Decision, consistent with this Opinion and Order.

I. History of Proceeding

On July 1, 2024, I&E filed a Formal Complaint (Complaint) against J J Serafin. In the Complaint, I&E alleged that J J Serafin violated Section 1101 of the Public Utility Code (Code), 66 Pa.C.S. § 1101, by acting as a *de facto* public utility when it provided intrastate trips as a common carrier of persons by motor vehicle for compensation between the periods of July 11, 2023, and March 12, 2024, while it did not possess a Certificate of Public Convenience. I.D. at 2, Complaint at 6-7. As relief, I&E sought the imposition of a civil penalty in the amount of Twelve Thousand Five Hundred Dollars (\$12,500) and such other relief as the Commission may deem appropriate. *Id.*

On July 22, 2024, J J Serafin filed an Answer and New Matter in response to the Complaint. In its Answer, J J Serafin admitted, in part, and denied, in part, the various material allegations of the Complaint. I.D. at 2, Answer at 1-9. J J Serafin replied that it had been operating as a carrier since its initial certification by the Commission in 1993. The Company admitted that on July 12, 2023, its Certificate of Public Convenience was canceled due to its failure to provide acceptable evidence of insurance. Answer at 5. The Company also asserted that it fully cooperated with the then-ongoing I&E investigation. *Id.* at 6.

The Company further noted in its New Matter that on August 22, 2023, it had filed an Application for Limousine service between points in Lackawanna and Luzerne Counties with the Commission. On October 10, 2023, a Secretarial Letter was issued granting the Certificate of Public Convenience to the Company and the Company promptly complied with the Commission's directive to file proof of insurance and a draft tariff. Answer at 5. However, on October 17, 2023, the Company filed a letter with the

Commission seeking to expand its service territory to transport as a common carrier by motor vehicle persons in limousine service to points in Pennsylvania and return. *Id.* The Commission docketed this as an Application. After Protests to the Application were received, on December 8, 2023, *inter alia*, J J Serafin filed a Petition to Withdraw its Application for its revised service territory and to proceed instead under the certificated authority granted by the Commission in its October 10 Secretarial Letter. *Id.* at 6. By Initial Decision issued April 24, 2024 (Hoyer I.D.), Deputy Chief ALJ Mark Hoyer granted the Company’s Petition to Withdraw regarding the revised territory, stating that the Company would “proceed under the authority granted by the Commission in its [October 10, 2023] Secretarial Letter. Hoyer I.D. at 4, FOF 5. By Final Order issued on May 28, 2024, the Hoyer I.D. became final without further Commission action in accordance with Section 332(h) of the Code, 66 Pa.C.S. § 332(h). Answer at 7.

J J Serafin also averred that since March 12, 2024, it ceased all transportation operations within points in Pennsylvania under the Commission’s jurisdiction. Answer at 6. J J Serafin further asserted that its intrastate service conducted between July 12, 2023, and March 12, 2024, was undertaken in connection with a work release program established and run by Luzerne County, and that service was beyond the Commission’s jurisdiction because J J Serafin was a third-party providing transportation pursuant to a program established and operated by a municipality. *Id.* at 7. J J Serafin requested that the Complaint be dismissed. I.D. at 2.

On August 1, 2024, I&E replied to the New Matter, therein admitting, in part, and denying, in part, the various material allegations and facts asserted by the Company. I.D. at 2.

On August 12, 2024, an Initial Call-In Telephonic Hearing Order was issued by ALJ Brady, setting a call-in hearing for October 16, 2024. Call-In Telephonic Hearing Order at 1. On September 12, 2024, ALJ Brady issued a Pre-Hearing Order

advising the parties of the date and time of the scheduled hearing and the applicable hearing procedures. I.D. at 3.

The Call-In Hearing commenced as scheduled on October 16, 2024. The individual appearing on behalf of J J Serafin was not an attorney, and thus, J J Serafin was not able to participate due to the lack of counsel appearing on its behalf. I.D. at 3, Tr. at 5. I&E was represented by counsel who presented the testimony of one witness, Motor Carrier Enforcement Officer Neal Ebbert. I&E offered three exhibits, sponsored by Officer Ebbert, that were admitted into the evidentiary record. *Id.*

The record closed on October 31, 2024, upon the filing of the hearing transcript with the Commission. I.D. at 3.

The Initial Decision of ALJ Brady was issued on January 21, 2025. Therein, the ALJ granted the Complaint and imposed a civil penalty of Five Thousand Four Hundred and Ten dollars (\$5,410.00). I.D. at 10-11.

As previously noted, on February 10, 2025, I&E filed Exceptions to the Initial Decision. No Replies to Exceptions have been filed.

II. Discussion

A. Legal Standards

1. Jurisdiction

Section 701 of the Code outlines the Commission's procedure for the review of complaints, stating in relevant part:

The Commission, or any person ... having an interest in the subject matter ... 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 explained by the Commission in *West Penn Power Co. v. Pa. PUC*, 478 A.2d 947 (Pa. Cmwlth. 1984) (West Penn), Section 701 of the Code provides for complaints against a public utility for anything done or not done in violation of the laws administered by the Commission or Commission Regulations and Orders. However, for the Commission to sustain a complaint against a public utility, the utility must be found to be in violation of its duty under the Code, the Commission's Regulations, or an Order of the Commission. Without proof of such a violation, the Commission does not have authority to require any action by the public utility in relation to the complaint.

See West Penn.

Furthermore, on review of an initial decision, the Commission has all of the powers which it would have in making the initial decision. 66 Pa.C.S. § 335(a). The Commission is the ultimate fact finder in proceedings before it and is charged with the

responsibility of considering all relevant evidence and of determining the weight of the evidence, the credibility of witnesses, and the reliability of estimates and opinions.

Hess v. Pa. PUC, 107 A.3d 246 (Pa. Cmwlth. 2014); *Pennsylvania Communities Organizing for Change, Inc. v. Pa. PUC*, 89 A.3d 338 (Pa. Cmwlth. 2014); *York Water Company v. Pa. PUC*, 414 A.2d 138 (Pa. Cmwlth. 1980).

The Commission may review the initial decision in its entirety without limit. *Romero v. Pa. PUC*, 154 A.3d 422 (Pa. Cmwlth. 2017). In fact, the Commission has full authority to disregard the initial decision of the administrative law judge and overrule it if the Commission reaches a contrary result, even where the initial decision is eminently reasonable. *AT&T Comms. of Pennsylvania v. Pa. PUC*, 568 A.2d 1362 (Pa. Cmwlth. 1990) citing *East Goshen Township v. Pa. PUC*, 486 A.2d 550 (Pa. Cmwlth. 1985).

2. Burden of Proof

Pursuant to Section 332(a) of the Code, the proponent of a rule or order, bears the burden of proof. 66 Pa.C.S. §332(a). To satisfy the burden of proof, I&E, as the party seeking relief, must establish a sufficient case that J J Serafin is responsible for the problem described in the Complaint. *Patterson v. The Bell Telephone Company of Pennsylvania*, 72 Pa. P.U.C. 196 (1990). This showing must be by a preponderance of the evidence. *Samuel J. Lansberry, Inc. v. Pa. PUC*, 578 A.2d 600 (Pa. Cmwlth. 1990), *alloc. denied*, 602 A.2d 863 (Pa. 1992). This standard requires I&E's evidence to be more convincing, by even the smallest amount, than the evidence presented by J J Serafin. *Se-Ling Hosiery, Inc. v. Margulies*, 364 Pa. 45, 70 A.2d 854 (Pa. 1950).

This Commission's decisions must be supported by substantial evidence in the record; more is required than a mere trace of evidence or a suspicion of the existence of a fact sought to be established. *Norfolk & West Ry. Co. v. Pa. PUC*, 413 A.2d 1037

(Pa. 1980). “Opinions and conclusions cannot be relied upon as substantial evidence in a decision by the Commission.” *Norman v. Phila. Gas Works*, Docket No. C-2018-2640719 (Opinion and Order entered Oct. 7, 2021) (*Norman*).

Upon presentation by I&E of sufficient evidence to initially satisfy the burden of proof, the evidentiary burden shifts to J J Serafin to present persuasive evidence rebutting that of I&E. If J J Serafin’s evidence is of co-equal weight, I&E has not satisfied its burden of proof, and it must provide additional evidence to rebut that of J J Serafin. *Burleson v. Pa. PUC*, 443 A.2d 1373 (Pa. Cmwlth. 1982), *aff’d*, 461 A.2d 1234 (Pa. 1983) (*Burleson*). While the evidentiary burden of persuasion may shift back and forth during a proceeding, the burden of proof never shifts. The burden of proof always remains on the party seeking affirmative relief from the Commission to prove its case by a preponderance of the evidence. *Milkie v. Pa. PUC*, 768 A.2d 1217 (Pa. Cmwlth. 2001).

3. Applicable Law for Motor Carriers

For any person or entity that would like to offer, render, furnish or supply transportation services to the public by vehicle operation, in call or demand service, for compensation, must first obtain a Certificate of Public Convenience. *See* 66 Pa.C.S. §§ 102, 1101-1103. The Commission has the full power and authority to enforce and carry out through its regulations, orders, or otherwise, the provisions and the full intent of the Code. *See* 66 Pa.C.S. § 501.

4. Civil Penalties

Section 3301(a) and (b) of the Code authorize the Commission to impose a maximum civil penalty of \$1,000 per day for violations of its statute. 66 Pa.C.S. § 3301(a), (b). Under 52 Pa. Code § 69.1201, the following factors and standards are

considered when evaluating whether and to what extent the imposition of a civil penalty is appropriate:

- (1) Whether the conduct at issue was of a serious nature. When conduct of a serious nature is involved, such as willful fraud or misrepresentation, the conduct may warrant a higher penalty. When the conduct is less egregious, such as administrative filing or technical errors, it may warrant a lower penalty.
- (2) Whether the resulting consequences of the conduct at issue were of a serious nature. When consequences of a serious nature are involved, such as personal injury or property damage, the consequences may warrant a higher penalty.
- (3) Whether the conduct at issue was deemed intentional or negligent. This factor may only be considered in evaluating litigated cases. When conduct has been deemed intentional, the conduct may result in a higher penalty.
- (4) Whether the regulated entity made efforts to modify internal practices and procedures to address the conduct at issue and prevent similar conduct in the future. These modifications may include activities such as training and improving company techniques and supervision. The amount of time it took the utility to correct the conduct once it was discovered and the involvement of top-level management in correcting the conduct may be considered.
- (5) The number of customers affected and the duration of the violation.
- (6) The compliance history of the regulated entity which committed the violation. An isolated incident from an otherwise compliant utility may result in a lower penalty, whereas frequent, recurrent violations by a utility may result in a higher penalty.

- (7) Whether the regulated entity cooperated with the Commission's investigation. Facts establishing bad faith, active concealment of violations, or attempts to interfere with Commission investigations may result in a higher penalty.
- (8) The amount of the civil penalty or fine necessary to deter future violations. The size of the utility may be considered to determine an appropriate penalty amount.
- (9) Past Commission decisions in similar situations.
- (10) Other relevant factors.

52 Pa. Code § 69.1201(c).¹

B. Initial Decision

In the Initial Decision, ALJ Brady made ten (10) Findings of Fact (FOF) and reached seven (7) Conclusions of Law (COL). I.D. at 3-5, 9-10. The Findings of Fact and Conclusions of Law are incorporated herein by reference and adopted without comment unless they are either expressly or by necessary implication rejected or modified by this Opinion and Order.

In his Initial Decision, ALJ Brady found, in pertinent part:

3. On July 11, 2023, the Respondent's Certificate of Public Convenience issued at Docket No. A-00110791, F.1, F.2 was cancelled for non-compliance with the insurance requirements set forth in 66 Pa.C.S. § 512. Tr. 10, I&E Exhibit 3.

¹ These are commonly known as the *Rosi* factors, having been developed in *Rosi v. Bell Atlantic-Pennsylvania, Inc.*, Docket No. C-00992409 (Opinion and Order entered February 10, 2000) (*Rosi*).

4. On November 2, 2023, I&E received a complaint that “AAA Limo” was “operating without authority for the past few months” and that Respondent does “contract work for the Luzerne County Correctional facility.” I&E Exhibit 1.
5. On December 22, 2023, Officer Neal Ebbert of the Commission’s Motor Carrier Enforcement spoke with Scott Serafin, a manager of J J Serafin, over the phone, wherein Mr. Serafin admitted to making intrastate trips. Tr. 10.
6. On December 27, 2023, Officer Ebbert visited J J Serafin at its office address in Forty Fort, Pennsylvania, where he reviewed Respondent’s paperwork. Tr. 10.
7. Upon review of the Respondent’s paperwork, Officer Ebbert concluded that the Respondent was making daily intrastate trips from the Luzerne County Correctional facility to two separate businesses, located in Berwick, Pennsylvania, and Nescopeck, Pennsylvania, respectively, weekly from November of 2023 through December 23, 2023. Tr. 10-11, I&E Exhibits 2, 3.
8. The Respondent received compensation for the aforementioned intrastate trips in the total amount of \$5,410.00. Tr. 11, I&E Exhibit 2.
9. The testimony of Officer Ebbert was accepted as credible.
10. On March 16, 2024, in response to a data request by I&E, the Respondent provided documentation that it was operating as a common carrier of persons within Pennsylvania for compensation between July 11, 2023, and March 12, 2024. Tr. 15, I&E Exhibit 3.

I.D. at 3-5, FOF Nos. 3-10.

Based upon his review of the evidence of record and the applicable provisions of the Code, the Commission's regulations, and relevant caselaw, ALJ Brady determined that I&E had, through the credible testimony of I&E Officer Neal Ebbert and corroborating documentation, presented substantial evidence that J J Serafin made intrastate trips between July 11, 2023, and March 12, 2024, for compensation, without a Certificate of Public Convenience in violation of 66 Pa.C.S. §§ 102, 1101-1103. I.D. at 6.

ALJ Brady noted that the Commission has the authority to consider and impose a civil penalty against a person or corporation that violates the Code. 66 Pa.C.S. § 3301; 52 Pa. Code § 69.1201. Emphasizing that the Commission may impose a maximum civil penalty of \$ 1,000 a day for each separate violation of the Code, the ALJ determined that imposing a civil penalty of \$1000 per day for the 245 days that J J Serafin operated without appropriate authority, (i.e., \$245,000), would be excessive. Instead, the ALJ considered the seriousness, duration, and intentional nature of J J Serafin's conduct in performing repeated common carrier trips despite its failure to hold a certificate of public convenience and after conducting a *Rosi* analysis, imposed a civil penalty of \$5,410.00. I.D. at 6-9.

In so doing, the ALJ determined that, despite having requested a \$12,500 civil penalty as relief in its Complaint, I&E did not directly address the basis for the same and the applicable *Rosi* factors in the context of its pleadings and limited evidence presented in the case. The ALJ stated:

Here, I&E requested a civil penalty in the amount of \$12,500. However, I&E did not explain or provide any argument to support its prayer for the Commission to impose a penalty in this amount. There were no statements made in its Complaint, other filings or during the hearing to explain how I&E reached the \$12,500 penalty amount. I&E did not address any of the factors set forth in 52 Pa. Code § 69.1201,

such as whether the conduct at issue was of a serious nature, the resulting consequences, intentionality, compliance history, remediation, deterrence amount, or prior Commission decisions under similar circumstances.

Accordingly, I must reach a determination as to the appropriate civil penalty based solely on the limited evidence presented. Based on this evidence, the Respondent operated without a Certificate of Public Convenience between July 11, 2023, and March 12, 2024 for a total of 245 days. Thus, pursuant to Sections 3301(a) and (b) of the Code, the Commission is authorized to impose a maximum civil penalty of \$245,000. I find this amount excessive under these circumstances. However, the Respondent's intentional conduct of operating without proper authority for this duration of time is of a serious nature and concern. At a bare minimum, the Respondent should not be allowed to profit from operating without a Certificate of Public Convenience. In this regard, the evidence shows that the Respondent received a total [of] \$5,410.00 during the period in question. *See* I&E Exhibit 2. Consequently, I find a civil penalty of \$5,410.00 is just and reasonable. *See* 52 Pa. Code § 69.1201. Further, approval of [the] same is in the public interest. At this amount, the Respondent does not profit from ignoring the law and has a deterrent not to operate as a common carrier of persons, for the purpose of transportation, in call or demand service, without first obtaining a Certificate of Public Convenience from the Commission.

I.D. at 8-9. The ALJ ordered J J Serafin to cease and desist from further violations of the Code and the Commission's Regulations and ordered J J Serafin to timely submit the \$5,410.00 civil penalty to the Commission or face further consequences of its dilatory and illegal conduct. I.D. at 10-11; Ordering ¶¶ 2, 3, 6.

C. I&E's Exceptions

I&E timely filed Exceptions to the Initial Decision on February 10, 2025. I&E takes no exception to the ALJ's grant of the Complaint, but states: "rather, these

exceptions are filed based on the failure of the Initial Decision to take into consideration the un rebutted evidence offered by I&E and in calculating the civil penalty imposed upon Respondent.” Exc. at 1-3. The Exceptions assign error to the level of civil penalty imposed by the ALJ and its method of calculation. Exc. at 1-3.

Further, I&E asserts that the ALJ failed to consider the *Rosi* factors, while faulting I&E for not doing so in support of its \$12,500 civil penalty request. Exc. at 1. Instead, I&E claims that the ALJ based the \$5,410 civil penalty on an erroneous calculation of the revenue received by the Respondent for only a fraction of the violation timeframe. I&E argues that the imposition of a reduced civil penalty will not sufficiently deter J J Serafin from performing the same services without the proper Commission certification. Exc. at 2.

I&E also claims that in the Initial Decision, the ALJ failed to take into account the totality of the trips taken by the Company when it did not possess a Certificate of Public Convenience, and urges the Commission to exercise its power as the ultimate finder of fact to consider the entirety of the extended timeframe and revenue generated from the illegal conduct to determine an appropriate civil penalty. Exc. at 2. I&E asserts that the \$12,500 civil penalty advanced in the Complaint is the correct result. However, and in the alternative, I&E requests that, even if the Commission leaves unchanged the ALJ’s methodology of calculating the civil penalty based on certain invoices from November and December 2023 trips, the ALJ incorrectly calculated the total revenue received by the Respondent from those trips, and the civil penalty should be modified accordingly. *Id.*

I&E agrees on several important aspects of the Initial Decision. For instance, I&E endorses the conclusion that J J Serafin should not be permitted to profit from operating without a Certificate of Public Convenience. Exc. at 3. In addition, I&E agrees with the ALJ that the “intentional conduct of operating without proper authority

for this duration of time is of a serious nature and concern.” Exc. at 4 (citing I.D. at 8). And lastly, I&E agrees that its Complaint should be granted. Exc. at 1-2.

I&E shoulders that admission that it did not proffer evidence regarding “how much Respondent received for its other illegal trips” but asserts that J J Serafin “certainly received at least some revenue from such activity.” Exc. at 4. I&E points out that the Respondent admitted that it undertook the trips for compensation in its response to I&E’s data request and the Respondent provided a log of those trips. This response and the trip log were admitted into evidence as I&E Exhibit 3. I&E claims that the ALJ, in the Initial Decision, failed to consider the trip log documenting the Respondent’s illegal trips between July 11, 2023, and March 12, 2024 for purposes of calculating the civil penalty. *Id.*

I&E claims that, “regardless of how much or how little profit a party operating as a common carrier of persons without Commission authority earns, the civil penalty for such behavior should be large enough to deter future violations.” I&E submits that J J Serafin being required to give up only a portion of its ill-gotten gains is hardly a sufficient penalty to deter future violations. I&E notes that the ALJ accepted that the Respondent’s “intentional conduct of operating without proper authority for this duration of time is of a serious nature and concern.” However, I&E asserts, the civil penalty imposed by the Initial Decision fails to sufficiently penalize this conduct or deter its recurrence. Exc. at 4.

I&E also explains:

I&E did not touch on every *Rosi* factor because some of the factors were either self-evident or not applicable. For instance, I&E did not discuss Respondent’s conduct being intentional because it was obvious that the conduct was intentional. Further, “[t]he number of customers affected and the duration of the violation” was provided by the log sheet

and the testimony of Officer Ebbert. Other factors, such as compliance history, were considered by I&E to neither add to nor subtract from Respondent's culpability in relation to the great weight of the seriousness of operating for such a duration without Commission authority and were therefore left unremarked.

Exc. at 6 (footnote omitted).

Finally, I&E cites to I&E Exhibit No. 2 as proof of the \$12,380 in revenue earned by J J Serafin from the November and December 2023 trips. Exc. at 4-5. With this in mind, coupled with the severity of the continuing offense of operating without a certificate for roughly an eight (8) month time period, I&E argues that the application of the *Rosi* factors supports the imposition of its initial civil penalty request of \$12,500. Exc. at 5-7.

III. Disposition

We begin by observing that any argument or Exception not specifically delineated shall be deemed to be considered and denied without further discussion or consideration. The Commission is not required to consider expressly, or at length, each contention or argument made by the parties. *Consolidated Rail Corp. v. Pa. PUC*, 625 A.2d 741 (Pa. Cmwlth. 1993); *see also, generally, University of Pennsylvania v. Pa. PUC*, 485 A.2d 1217 (Pa. Cmwlth. 1984).

This matter involves I&E's claim of violations of the Code and the Commission's Regulations governing motor carriers of passengers by J J Serafin. The only evidence of record was supplied by I&E, as J J Serafin was not permitted to

participate in the hearing due to its failure to be represented by counsel.² The Company's Answer and New Matter contested whether any illegal conduct had occurred and asserted a lack of Commission jurisdiction over a large portion of the transportation undertaken by the Company after its Certificate of Public Convenience had been cancelled in July 2023.

We find it necessary to highlight the particular circumstances presented in the instant matter. Specifically, the carrier here: (1) possessed a Certificate of Public Convenience to operate in a broad service territory for approximately 30 years; (2) lost its operating authority in July 2023 for failure to maintain evidence of insurance or respond to the Commission's Order advising of the imminent cancellation of its Certificate of Public Convenience; (3) re-applied to the Commission seeking a more limited service territory and gained a Certificate of Public Convenience via a Secretarial Letter issued in October 2023 (*October 2023 Secretarial Letter*); (4) in response to receiving that approval, filed to revise (or essentially correct) its service territory by broadening it; (5) faced protests; and (6) withdrew the proposed service territory revision, retaining the more limited authority granted in the *October 2023 Secretarial Letter*.

It is clear that the Company put itself in the untenable position of having lost its Certificate of Public Convenience in July 2023. However, it applied promptly in August 2023 for a new Certificate of Public Convenience, albeit with a more limited service territory. Compounding this series of events, on the cusp of receiving the full requested operating authority, the Company advised the Commission by letter that it had limited its territory request inadvertently and asked to revise the operating territory. That requested revision was treated by the Commission as an application revision. The

² The Company was represented by counsel at the beginning of the investigation until a Withdrawal of Appearance was submitted to the Commission on September 24, 2024. The ALJ took no official action on the withdrawal but noted at the commencement of the hearing that no attorney had appeared for J J Serafin and, thus, it would not be permitted to participate in the hearing. Tr. at 5.

revision was ultimately protested by other carriers. The matter thus remained pending before ALJ Hoyer from October 2023 to March 2024. Importantly, the Company never stopped providing transportation services throughout the time its original Certificate of Public Convenience was cancelled in July 2023 and its application and revision were pending before the Commission. Therein lies the Company's repeated violations of the Code, our Regulations, and the October 2023 Secretarial Letter.³

The only matter in dispute on Exceptions is whether, and to what extent, a civil penalty should be imposed upon J J Serafin for its illegal conduct. Through its Exceptions, I&E faults the ALJ for allegedly failing to consider our Policy Guidelines at 52 Pa. Code §69.1201, commonly known as the *Rosi* factors, in adjudicating an appropriate civil penalty to deter future illegal conduct. I&E, in the same legal pleading, admits that it did not explicitly detail a *Rosi* factor analysis at any point prior to the issuance of the Initial Decision. Exc. at 6. Putting aside I&E's claims of purported inadequate *Rosi* analysis by the ALJ, we note with emphasis that there are numerous procedural mechanisms in the Commission's Regulations for the submission of record evidence and for the presentation of argument in support of explicitly requested relief such as the \$12,500 civil penalty at issue here. I&E is encouraged to fully utilize these procedural mechanisms in future enforcement proceedings. We also note that, as the

³ The Company averred that the numerous prisoner work-release transportation trips it undertook during the relevant timeframe were beyond the Commission's jurisdiction. I&E took issue with this averment and produced evidence showing the payments received by the Company were from the associated employers and not the municipal governments housing the transported individuals. I&E also presented evidence that no contract between the Company and the municipalities had been produced by the Company to prove a "third party standing in the shoes of" relationship between the Company and the municipal governments. There is no evidence of record from J J Serafin that establishes the associated service as non-jurisdictional. Thus, on this record, we cannot conclude that the subject transportation service was beyond our jurisdiction. However, we find that the question is moot because the Company can provide the services under its current Certificate of Public Convenience. We admonish the Company to do so at its currently tariffed rates.

ultimate finder of fact, the Commission has the authority to determine if the public interest will be served by the imposition of a civil penalty and the amount thereof.

We disagree with I&E's assertion that the ALJ did not apply relevant *Rosi* factors in reaching his conclusion on the amount of a civil penalty to be imposed, and to the extent the Exceptions so state, they are denied. However, we shall grant the Exceptions as to the amount of an appropriate civil penalty to deter future disregard of the Code, our Regulations and Orders. In so doing, we will undertake an analysis here of each *Rosi* factor and base our conclusions on the record as a whole and in our judgement as the ultimate finder of fact.

The first *Rosi* factor is whether the violation was of a serious nature or whether it was less egregious, such as administrative or technical error. 52 Pa. Code § 69.1201(c)(1). We agree with both the ALJ and I&E that the conduct is of a serious nature, which warrants the imposition of a higher penalty. Importantly, the record evidence demonstrates that J J Serafin's Certificate of Public Convenience was cancelled on July 11, 2023, by this Commission for failure to submit proof of insurance in compliance with our Regulations. Despite this Order, the Company continued providing service from July 11, 2023 until March 12, 2024. This factor weighs in favor of a higher civil penalty.

The second *Rosi* factor is whether resulting consequences of the conduct at issue were of a serious nature and resulted in damage to persons or property. 52 Pa. Code § 69.1201(c)(2). Here, there are no allegations or record evidence of harm to persons or property as a result of J J Serafin's conduct. Consideration of this factor thus weighs in favor of a lesser penalty.

The third *Rosi factor* is whether the conduct was intentional or negligent. 52 Pa. Code § 69.1201(c)(3). ALJ Brady found the evidence showed the conduct was

intentional, and I&E agrees that the record supports this conclusion. I.D. at 8; Exc. at 6. We agree that the record supports a conclusion that the conduct was intentional and flouting of the Commission’s cancellation of the Certificate of Public Convenience warrants the imposition of a higher civil penalty.

The fourth *Rosi* factor has two parts. First, whether the Company has undertaken efforts to address the conduct and prevent similar conduct. Second, the time it took the Company to correct the conduct once discovered. 52 Pa. Code § 69.1201(c)(4). The former consideration was neither explained on the record nor in the Initial Decision. The latter item – the time it took to correct the conduct – was substantial.⁴ Thus, this factor weighs in favor of a higher civil penalty. We also take care to order J J Serafin to cease and desist from further violations of the Code, our Regulations, and our Orders.

The fifth *Rosi* factor considers the number of customers affected and the duration of the violation. 52 Pa. Code § 69.1201(c)(5). The record demonstrates that there were numerous customers transported, but not adversely affected, and a lengthy eight-month violation timeframe. The Commission finds it fortunate that no persons were adversely impacted during their use of the Company’s services while it proceeded without necessary operating authority. Nonetheless, given the associated risks of such

⁴ The Company applied for a new Certificate of Public Convenience in August 2023, and the Commission acted upon the application with all due haste, granting a Certificate of Public Convenience subject to usual insurance and tariff filing prerequisites. The Company’s subsequent filing of a “revision” to the service territory, granted in the October 2023 Secretarial Letter, resulting in the pendency of operating authority referred to by I&E’s witness and the ALJ in the instant matter. J J Serafin did not cease operations despite the cancellation of its Certificate of Public Convenience and the pendency of its newly acquired operating authority. The Commission makes abundantly clear in its correspondence to applicants and its Orders/Secretarial Letters that the filing of an application does not constitute the authority to operate.

transport and the lengthy violation period, we determine that this factor weighs in favor of a higher civil penalty.

The sixth *Rosi* factor is a consideration of the Company's compliance history. 52 Pa. Code § 69.1201(c)(6). Neither I&E nor the ALJ addressed this item. In its Answer, the Company alleged to have only minor infractions prior to the events precipitating this Complaint proceeding. Our search of the Commission's records reveals an adverse compliance history of several fines imposed upon the Company over the years for failure to maintain evidence of insurance on file with the Commission. In addition, we note the ultimate cancellation of the Company's operating authority on July 11, 2023, for its failure to submit evidence of insurance and respond to our Tentative Order advising of the impending cancellation. Thus, we find the Company's negative compliance history weighs in favor of a higher civil penalty.

Under the seventh *Rosi* factor, the Commission must consider whether the regulated entity cooperated with the Commission's investigation. 52 Pa. Code § 69.1201(c)(7). There is no dispute in this record that the Company cooperated with the I&E investigation. This factor, thus, weighs in favor of a lesser penalty.

Under the eighth *Rosi* factor, the Commission determines the amount of the civil penalty, set at the level necessary to deter future violations, with consideration given to the size of the utility. 52 Pa. Code § 69.1201(c)(8). ALJ Brady determined that a lower civil penalty than that requested by I&E would be sufficient to deter future illegal conduct. I.D. at 9. I&E disagrees in its Exceptions, citing the plentiful revenue earned beyond that earmarked by the ALJ for claw-back. Exc. at 2, 5. In addition, I&E urges that the revenue received should not be the sole basis for the determination of an appropriate civil penalty; instead, I&E is of the opinion that the totality of the circumstances should govern such an assessment. Exc. 2-6. We determine that deterrence of future illegal conduct is paramount in this matter, because past intentional

conduct was involved for an extended period of time. However, counterbalancing is the small size of the utility that was operating for some thirty (30) years prior to this enforcement matter. We err on the side of a conclusion that a higher civil penalty is warranted, although not at a level that will unduly damage the Company's ability to continue regulated operations under appropriately acquired and maintained authority.

The ninth *Rosi* factor is the consideration of past Commission decisions. 52 Pa. Code § 69.1201(c)(9). Neither I&E nor the ALJ discussed this factor, but we note that in most motor carrier enforcement proceedings, we have imposed modest civil penalties in consideration of the often minor nature of the infractions and small size of the regulated entities. The Commission's decisions to levy much greater civil penalties in matters involving very large motor carriers are not similar circumstances to those presented in the instant case. This factor weighs in favor of a lesser civil penalty.

The tenth *Rosi factor* involves consideration of any other relevant factors. 52 Pa. Code § 69.1201(c)(10). ALJ Brady found that no other factors had been suggested or considered. We note the somewhat convoluted history of the Company's approach to re-certification after it lost its Certificate of Public Convenience, which we have taken into consideration as an additional factor in the instant matter.

Upon considering the record as a whole, the Code, our Regulations, including civil penalty assessment guidelines, and pertinent case law, we shall modify the Initial Decision. We agree with the ALJ that imposition of a \$245,000 maximum civil penalty is excessive under the circumstances of this matter. However, we must stress that the determination of an appropriate civil penalty on the record presented here commands consideration of several factors beyond the level of revenue earned by the Company from its illegal conduct in November and December 2023. Thus, I&E's Exceptions are granted, in part, to modify the ALJ's imposition of a civil penalty in the amount of \$5,410. We decline, however, to impose the full \$12,500 civil penalty proposed by I&E,

finding it to be without adequate explanation or support in the record and excessive given the small size of the Company. Several *Rosi* factors weigh in favor of a higher civil penalty, we thus exercise our authority as the ultimate finder of fact to impose a civil penalty of \$10,000. This is no small sum and is an amount we determine to be a sufficient deterrent to future illegal conduct from this common carrier.

Accordingly, in the ordering paragraphs below, we shall direct that J J Serafin shall remit a civil penalty in the amount of \$10,000 within thirty (30) days of the entry date of this Opinion and Order.

IV. Conclusion

Based on the foregoing discussion and our review of the Initial Decision, I&E's Exceptions, and the record in this proceeding, we shall grant the Exceptions filed by I&E, in part, and deny them, in part, and modify the Initial Decision of ALJ F. Joseph Brady, issued on January 21, 2025, consistent with this Opinion and Order;

THEREFORE,

IT IS ORDERED:

1. That the Exceptions of the Commission's Bureau of Investigation and Enforcement, filed on February 10, 2025, to the Initial Decision of Administrative Law Judge F. Joseph Brady at Docket No. C-2024-3049873, issued on January 21, 2025, are granted, in part, and denied, in part, consistent with this Opinion and Order.

2. That the Initial Decision of Administrative Law Judge F. Joseph Brady, issued on January 21, 2025, is modified, consistent with this Opinion and Order.

3. That the Formal Complaint filed by the Bureau of Investigation and Enforcement on July 2, 2024, against J J Serafin Inc., t/a AAAA Limo and AAAA Transit at Docket No. C-2024-3049873, is granted, consistent with this Opinion and Order.

4. That within thirty (30) days after entry of the Commission’s Final Order in this case, J J Serafin Inc. t/a AAAA Limo & AAAA Transit, shall pay a civil penalty of Ten Thousand dollars (\$10,000.00) pursuant to Section 3301 of the Public Utility Code, 66 Pa.C.S. § 3301, by sending a certified check or money order, made payable to the “Commonwealth of Pennsylvania” with the docket number of this proceeding listed to:

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

5. That J J Serafin Inc. t/a AAAA Limo & AAAA Transit shall cease and desist from further violations of the Public Utility Code, 66 Pa.C.S. §§101–3316, and the regulations of this Commission, 52 Pa. Code §§1.1–1065.1.

6. That a copy of this Opinion and Order shall be served upon the Commission’s Financial and Assessment Chief, Bureau of Administrative Services.

7. That the Bureau of Administrative Services, Assessment Section shall monitor this matter for compliance.

8. That, if J J Serafin Inc. t/a AAAA Limo & AAAA Transit fails to make the payment required by Ordering Paragraph No. 4 above, within thirty (30) days of

the entry date of the 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.

9. That, after J J Serafin Inc. t/a AAAA Limo & AAAA Transit remits the payment required by Ordering Paragraph No. 4 above, the Secretary shall mark this proceeding at Docket No. C-2024-3049873 closed.

BY THE COMMISSION,

A handwritten signature in black ink, appearing to read "Matthew L. Homsher". The signature is written in a cursive style with a large initial "M".

Matthew L. Homsher
Secretary

(SEAL)

ORDER ADOPTED: August 14, 2025

ORDER ENTERED: August 14, 2025