

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

Public Meeting held September 25, 2025

Commissioners Present:

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

Pennsylvania Public Utility Commission,
Bureau of Investigation and Enforcement

C-2022-3029070

v.

Best Taxi, LLC

Pennsylvania Public Utility Commission,
Bureau of Investigation and Enforcement

C-2022-3029079

v.

Good Cab, LLC

OPINION AND ORDER

BY THE COMMISSION:

Before the Pennsylvania Public Utility Commission (Commission) for consideration and disposition are the Exceptions filed by Best Taxi, LLC (Best Taxi) and Good Cab, LLC (Good Cab) (collectively, Companies or Respondents) on July 18, 2025,

to the Initial Decision (I.D.) of Deputy Chief Administrative Law Judge (ALJ) Gail M. Chiodo, issued on June 18, 2025, in the above-captioned proceeding. In the Initial Decision, the ALJ sustained the consolidated Formal Complaints (Complaints) brought by the Commission's Bureau of Investigation and Enforcement (I&E) and imposed civil fines on the Companies consistent with the Commission's Regulations for the violations at issue.¹ On July 28, 2025, I&E filed Reply Exceptions. Also, before the Commission, is the Motion to Strike the Untimely Filed Exceptions of the Companies (Motion), filed by I&E on July 28, 2025.² No Answer to the Motion has been filed. For the reasons stated below, we will grant the Motion and adopt the Initial Decision, consistent with this Opinion and Order.

I. History of the Proceeding

On February 9, 2022, I&E filed a Formal Complaint against Best Taxi alleging that an inspection of Best Taxi's vehicle and driver records on October 6, 2021, revealed that Best Taxi committed the following two violations:

- (1) allowed one driver to operate a taxicab who is disqualified due to being convicted of a felony or misdemeanor relating to the suitability of the driver to provide safe and legal service in violation of 52 Pa. Code § 29.505(b)(1); and
- (2) failed to require the driver to maintain log sheets for all trips, in violation of 52 Pa. Code § 29.313(c).

¹ The Complaints at Docket Nos. C-2022-3029070 and C-2022-3029079 were consolidated by Order dated September 23, 2022.

² The Motion contained a Notice to Plead stating that, pursuant to 52 Pa. Code §§ 5.61(a)(1) and 5.103(c), any Answer to the Motion must be filed within twenty days of service of the Motion.

For the first offense, I&E sought a fine of \$1,000; and for the second offense, a fine of \$50. These proposed fines totaled \$1,050. The prosecution against Best Taxi was docketed at Docket No. C-2022-3029070 (Best Taxi Proceeding).

On February 14, 2022, I&E filed a Formal Complaint against Good Cab alleging that an inspection of Good Cab's vehicle and driver records on October 7, 2021, revealed the following three violations:

- (1) failed to obtain and review the criminal histories of three employee drivers prior to allowing the employees to operate the company's vehicles, in violation of 52 Pa. Code § 29.505(b)(1);
- (2) allowed one employee driver to operate who was disqualified due to being convicted of a felony or misdemeanor relating to the suitability of the driver to provide safe and legal service, in violation of 52 Pa. Code § 29.505(b)(1); and
- (3) failed to require the employee drivers to maintain log sheets for all trips, in violation of 52 Pa. Code § 29.313(c).

For the first offense, I&E sought a fine of \$250 per violation for each of the three employees, totaling \$750; for the second offense, a fine of \$1,000; and for the third offense, a fine of \$50. These proposed fines totaled \$1,800. The prosecution against Good Cab was docketed at Docket No. C-2022-3029079 (Good Cab Proceeding).

On March 4, 2022, the Respondents filed Answers to the respective Complaints denying the material allegations in each. Alternatively, the Companies requested that the Commission grant them leniency and reduce the requested fine amounts.

On June 21, 2022, a hearing was held in the Good Cab Proceeding at which counsel for I&E appeared and presented the testimony of one witness who sponsored six exhibits which were admitted into the record. Counsel for Good Cab also appeared and made an opening statement raising arguments for the first time that Section 29.505(b)(1) of the Commission's Regulations, 52 Pa. Code § 29.505(b)(1) (relating to the criminal history of employees), is unconstitutional. Good Cab Proceeding Tr. at 50-51. During the hearing, counsel for Good Cab presented the testimony of one witness but no exhibits were offered for the record.

On July 19, 2022, the hearing was convened in the Best Taxi Proceeding at which the Parties jointly requested the consolidation of the Best Taxi and Good Cab Proceedings. Best Taxi Proceeding Tr. at 6-7. In support, counsel for Best Taxi explained that he intended to raise the same issue that was raised in the Good Cab Proceeding pertaining to the constitutionality of Section 29.505(b)(1) of the Commission's Regulations. Counsel for the Companies also stated that he represented both Good Cab and Best Taxi and that they are owned by the same individual, Maher Saber.

As previously noted, by Order dated September 23, 2022, both proceedings were formally consolidated for adjudication and resolution.

On January 9, 2023, the Parties filed a Joint Stipulation of Facts in the Best Taxi Proceeding, and the further scheduled hearing in that matter was cancelled.

On September 22, 2023, I&E and Respondents filed respective briefs addressing the issue of the constitutionality of 52 Pa. Code § 29.505(b)(1).

On November 15, 2024, the Parties filed a Joint Stipulation of Facts in the Good Cab Proceeding.

By Initial Decision issued on June 18, 2025, the ALJ denied the Companies' constitutional challenge to Section 29.505(b)(1) of the Commission's Regulations, sustained the Complaints, and imposed the fines requested by I&E.³ As noted above, the Companies filed Exceptions on July 18, 2025. On July 28, 2025, I&E filed Reply Exceptions. Also, on July 28, 2025, I&E filed its Motion. No Answer to the Motion has been filed.

II. Discussion

A. Legal Standards

Pursuant to Section 701 of the Public Utility Code (Code), 66 Pa.C.S. § 701, the Commission may file a Complaint against a public utility for violation of any section of the Code, or any Regulation or Order of the Commission.

As the proponent of a rule or order, the Complainant in this proceeding bears the burden of proof pursuant to Section 332(a) of the Code. 66 Pa.C.S. § 332(a). To establish a sufficient case and satisfy the burden of proof, the Complainant, as the party seeking relief, must show that Best Taxi and Good Cab is responsible or accountable for the problem described in the Complaint. *Patterson v. The Bell Telephone Company of Pennsylvania*, 72 Pa. P.U.C. 196 (1990). Such a 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). That is, the Complainant's evidence must be more convincing, by even the smallest amount, than that presented by Best Taxi and Good Cab. *Se-Ling Hosiery, Inc. v. Margulies*, 70 A.2d 854 (Pa. 1950).

³ The Commission's Secretary's Bureau issued the Initial Decision by letter dated June 18, 2025 (*Secretarial Letter*). The *Secretarial Letter* advised the Parties that any Exceptions to the Initial Decision must be filed within twenty (20) days of the date of the letter (*i.e.*, on or before July 8, 2025).

Additionally, this Commission's decision 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 & Western Ry. Co. v. Pa. PUC*, 413 A.2d 1037 (Pa. 1980).

Upon the presentation by the Complainant of evidence sufficient to initially satisfy the burden of proof, the burden of going forward with the evidence, to rebut the evidence of the Complainant, shifts to the Respondents. If the evidence presented by the Respondents is of co-equal weight, the Complainant has not satisfied his burden of proof. The Complainant now has to provide some additional evidence to rebut that of the Respondents. *Burleson v. Pa. PUC*, 443 A.2d 1373 (Pa. Cmwlth. 1982), *aff'd*, 461 A.2d 1234 (Pa. 1983).

While the 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. *Milkie v. Pa. PUC*, 768 A.2d 1217 (Pa. Cmwlth. 2001).

The Commission's Regulation at 52 Pa. Code § 29.505(b)(1) provides, as follows:

§ 29.505. Criminal history.

(b) *Call or demand and limousine drivers.*

(1) *Criminal background check.* Prior to permitting a person to act as a call or demand or limousine driver, a carrier shall conduct or have a third party conduct a local and National criminal background check for each driver applicant. The background check must include a multistate or multijurisdictional criminal records locator

or other similar commercial Nationwide database with primary source search validation and a review of the United States Department of Justice National sex offender public web site. The carrier shall disqualify an applicant convicted of certain crimes in accordance with the following:

(i) An applicant convicted of any of the following within the preceding 7 years:

(A) Driving under the influence of drugs or alcohol.

(B) A felony conviction involving theft.

(C) A felony conviction for fraud.

(D) A felony conviction for a violation of The Controlled Substance, Drug, Device and Cosmetic Act (35 P.S. §§ 780-101--780-144).

(ii) An applicant convicted of any of the following within the preceding 10 years:

(A) Use of a motor vehicle to commit a felony.

(B) Burglary or robbery.

(iii) An applicant convicted of any of the following at any time:

(A) A sexual offense under 42 Pa.C.S. § 9799.14(c) or (d) (relating to sexual offenses and tier system) or similar offense under the laws of another jurisdiction or under a former law of the Commonwealth.

(B) A crime of violence as defined in 18 Pa.C.S. § 5702 (relating to definitions).

(C) An act of terror.

52 Pa. Code § 29.505(b)(1) (Criminal History Regulation).

Finally, we note that any issue we do not specifically delineate shall be deemed to have been duly considered and denied without further discussion. The Commission is not required to consider expressly or at length each contention or argument raised 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).

B. Positions of the Parties⁴

In their brief, the Companies asserted that the sole issue before the Commission is extremely narrow, *i.e.* whether 52 Pa. Code § 29.505(b) is facially unconstitutional. Specifically, the Companies challenged the Commission's Criminal History Regulation which requires that call and demand carriers such as the Respondents must disqualify driver applicants convicted of certain crimes within specified time frames. Respondents' Brief at 3.

As certificated call or demand carriers and by virtue of being cited for violating 52 Pa. Code § 29.505(b), the Companies alleged that they have standing to challenge the Criminal History Regulation. Additionally, the Respondents averred that the Criminal History Regulation violates Article I, Section 1 of the Pennsylvania

⁴ The following is a summary of the Positions of the Parties. For a further discussion of the arguments and internal citations, see pages 15-25 of the Initial Decision.

Constitution (Art. I, § 1) which includes the right to pursue a lawful occupation.⁵ Specifically, the Companies argued that the Criminal History Regulation does not pass rational scrutiny because it creates a categorical ban against the hiring of drivers with certain past criminal histories, while providing no limitation that the prior conviction must relate to the driver's ability to provide call or demand service to the public in a safe manner. Respondents' Brief at 4-5.

Additionally, the Companies contended that the Criminal History Regulation improperly creates an irrebuttable presumption that those convicted of certain enumerated crimes are not capable of safely operating in call or demand service, and irrebuttable presumptions often run afoul of due process protections. According to the Respondents, an irrebuttable presumption is not constitutional if: (1) it encroaches on an interest protected by the due process clause (in the instant case, the right to pursue a lawful occupation); (2) the presumption is not universally true; and (3) reasonable alternative means exist for ascertaining the presumption fact. Respondents' Brief at 6 (citing *Dept. of Transp., Bureau of Driver Licensing v. Clayton*, 684 A.2d 1060, 1063 (Pa. 1996) (*Clayton*)).

In support of their position, the Respondents cited to Section 29.505(a)(3) of the Commission's Regulations, 52 Pa. Code § 29.505(a)(3), which applies to

⁵ All men are born equally free and independent, and have certain inherent and indefeasible rights, among which are those of enjoying and defending life and liberty, of acquiring, possessing and protecting property and reputation, and of pursuing their own happiness.

Art. I, § 1.

disqualification of common or contract carriers due to a criminal record.⁶ The Respondents argued that when comparing Section 29.505(a)(3) of the Regulations, the Criminal History Regulation does not satisfy the *Clayton* test. Specifically, the Companies contended that in contrast to the three categories of disqualifying criminal convictions in Section 29.505(b)(1) for call or demand and limousine drivers, a driver for a common or contract carrier is disqualified from employment when convicted of a felony or misdemeanor where the conviction “relates adversely to that person’s suitability to provide service safely and legally.” Respondents’ Brief at 7.

In further support of their position that the Criminal History Regulation is facially unconstitutional, the Companies cited to Section 9125(b) of Pennsylvania’s Criminal History Record Information Act (CHRIA), 18 Pa.C.S. § 9125(b), which provides that “[f]elony and misdemeanor convictions may be considered by the employer only to the extent to which they relate to the applicant’s suitability for employment in the position for which he has applied.” According to the Companies, there is no suggestion that the felony convictions at issue in this proceeding relate adversely to the driver’s suitability to provide service safely and legally. Respondents’ Brief at 5.

⁶ Section 29.505(a)(3) provides:

(a) *Common or contract carriers, except for call or demand and limousine drivers.*

* * *

(3) *Disqualification.* A common or contract carrier may not permit a person to operate a vehicle in its authorized service when the person was convicted of a felony or a misdemeanor under the laws of the Commonwealth or under the laws of another jurisdiction, to the extent the conviction relates adversely to that person's suitability to provide service safely and legally.

52 Pa. Code § 29.505(a)(3).

The Respondents contended that there is no logical or rational reason that call or demand carriers cannot exercise the same discretion as contract or common carriers in determining whether a prospective driver's prior criminal history relates adversely to that person's suitability to provide service safely and legally. Here, the Companies argued that Mr. Ahmed, as the owner of the carriers, employed his twenty years of experience in the operation of a call or demand service to determine that each driver's criminal history was not relevant to the position of taxi driver and thus should not disqualify them from this position. Respondents' Brief at 8.

For relief, the Companies requested that the Commission recognize that the Criminal History Regulation is facially unconstitutional and unenforceable. Accordingly, the Companies asserted that any citation issued by the Commission for violation of 52 Pa. Code § 29.505(b)(1) be dismissed. Respondents' Brief at 8.

In their brief, I&E argued that the Companies lack standing to challenge the constitutionality of the Criminal History Regulation. Alternatively, I&E asserted that if the Companies are deemed to have standing to challenge the constitutionality of the Criminal History Regulation, the Regulation is constitutional and enforceable because it bears a rational relationship to the interest the Commission aims to achieve. I&E Brief at 4-9.

Regarding the arguments pertaining to standing, I&E contended that the Companies are attempting to assert the unconstitutionality of a Commission Regulation by way of their former employees who were convicted felons barred at the time the Commission filed the Complaints against the Companies. According to I&E, the Companies are not asserting a violation of their own rights but are attempting to challenge the Criminal History Regulation by asserting the rights of third parties. I&E Brief at 3-4.

As to I&E's alternative argument that the Criminal History Regulation is constitutional, I&E asserted that it is rational to prohibit those with drug- or violence-related convictions from operating as taxi drivers to protect the health, safety, and welfare of citizens who use taxi services. I&E further noted that there is a heavy burden for a litigant to counteract the presumption of constitutionality of a statute or regulation. Moreover, I&E argued in part that the Criminal History Regulation is analogous to other similar statutory restrictions in state and federal law that are applicable to a wide range of positions, from labor unionists to police officers to airport workers to bankers to employee benefit plan trustees. According to I&E, restrictions on hiring individuals with certain criminal convictions is common for positions that require a great deal of trust to be placed in the individual so employed and carry a high degree of responsibility to do the job with integrity. I&E Brief at 4-9.

In summary, I&E contended that the Criminal History Regulation bears a rational relationship to the interests that the Commission aims to promote, which is the safety and security of taxi passengers as well as the safe operation of taxi vehicles traversing the public streets. I&E Brief at 9-10.

Accordingly, I&E requested that the Commission find that the Respondents lack standing to challenge the constitutionality of the Criminal History Regulation, or alternatively to find that the Regulation is constitutional – and sustain the Complaints in their entirety. I&E Brief at 11.

C. Initial Decision

In the Initial Decision, ALJ Chiodo made thirty-two (32) Findings of Fact and reached ten (10) Conclusions of Law. I.D. at 8-12, 31-32. 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.

The ALJ began by addressing the uncontested violations in the Complaints. Specifically, the ALJ explained that three of the five aggregate violations were not being contested. The ALJ reasoned that, upon review of the Joint Stipulations of Fact, the hearing record in the Good Cab Proceeding, and the briefs of the Parties, there is support for finding that the Respondents violated one count each of 52 Pa. Code § 29.213(c) for the failure of all drivers to maintain log sheets, and that Good Cab violated one count of Section 52 Pa. Code § 29.505(b)(1) for its failure to obtain and review the criminal histories of three employees. Accordingly, the ALJ found that the Companies violated these Regulations and imposed the applicable civil penalties. I.D. at 25, 29-31.

Regarding the two remaining contested counts, one count for each violation of the Criminal History Regulation, the ALJ found that the Companies lacked standing in their instant constitutional challenge. The ALJ began by noting that the Companies did not claim that the Criminal History Regulation was unconstitutional as applied to them in their respective particular circumstances. Therefore, the ALJ found that this case does not present an “as-applied” constitutional attack, which, arguably, the Companies would have standing to bring. I.D. at 25.

In contrast, the ALJ explained that the Respondents have made clear that the Criminal History Regulation in the instant matter is being challenged “on its face,” without regard to any particularized set of circumstances. I.D. at 25. The ALJ stated that such a facial challenge – which attacks the entire Criminal History Regulation by asserting it is unconstitutional in all applications – is generally disfavored in constitutional law litigation. *Id.* (citing *Commonwealth v. Pownall*, 278 A.3d 885 (Pa. 2022)).

The ALJ also noted that the Companies based their standing on their status as certificated carriers and by being cited for violating the Criminal History Regulation. However, the ALJ explained, the alleged constitutional violation at issue in this proceeding is based on the guaranteed right under Art. I, § 1, to pursue a lawful occupation. The ALJ found such an occupational right pertains to that of a taxi driver and not of a call and demand carrier. Although acknowledging that a carrier may be cited for hiring such taxi drivers, as occurred in the instant case, the ALJ reasoned that this fact does not give rise to infringing upon the occupation of the carrier. I.D. at 26.

Specifically, the ALJ determined that the Companies failed to assert that the Criminal History Regulation unlawfully impedes their ability 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 [Criminal History Regulation], thereby making it impossible for them to operate their Companies.” I.D. at 26.

The ALJ rejected the Companies’ attempt to base their facial constitutional challenge on the argument that the Criminal History Regulation takes away their discretion to determine when they may employ certain convicted felons. In support of this determination, the ALJ reasoned that, arguably, every Regulation somehow impedes an owner’s discretion to act in some manner that they may otherwise want to act. I.D. at 26.

Further, the ALJ explained that, in general, one may not claim standing to vindicate the constitutional rights of some third party, including rights in an employer-employee relationship. I.D. at 26 (citing *Singleton v. Wulff*, 428 U.S. 106 (1976) (*Singleton*)). Thus, the ALJ found that the right to assert the instant constitutional challenge, if any, belongs to the prospective taxi or limousine drivers who were denied

employment on the basis of the applicants' criminal convictions under the Criminal History Regulation. I.D. at 26.

Additionally, the ALJ reasoned that the Respondents have not asserted any hinderance to the affected driver applicants' ability to protect their own interests. I.D. at 26 (citing *Singleton*, 428 U.S. at 114-117 (explaining that for a party to assert the rights of another, they must demonstrate a close relationship with the person who possesses the right and show that there is a hindrance to the possessor's ability to protect their own interests)). On the other hand, the ALJ explained that the Criminal History Regulation has not infringed on Mr. Ahmed's right to pursue ownership and operation of the call and demand Companies. I.D. at 26-27.

In the Initial Decision, the ALJ analyzed the rationale behind the general rule that a party cannot assert the rights of a third party but can only assert their own legal rights and interests. According to the ALJ, this rule is grounded in the notion that the party with the right has the appropriate incentive to challenge governmental action and to do so with the necessary zeal and appropriate presentation. I.D. at 27 (citing *Kowalski v. Tesmer*, 543 U.S. 125, 129 (2004) (*Tesmer*)). This rule is also designed to avoid deciding questions of broad social import and to limit access to the courts to those litigants best suited to assert a particular claim; and third parties themselves usually will be the best proponents of their own rights. I.D. at 27 (citing *The Pitt News v. Fisher*, 215 F.3d 354 (3d Cir. 2000); and *Singleton*). The ALJ determined that the present proceeding is illustrative of the purpose of the underlying rationale of the general rule against the assertion of third-party rights. I.D. at 27.

The ALJ also addressed the Companies' citation to Section 9125(b) of CHRIA in support of their constitutional arguments. Here, the ALJ acknowledged that on its face this provision requires employers to consider felony and misdemeanor convictions "only to the extent to which they relate to the applicant's suitability for

employment in the position for which he has applied.” I.D. at 27 (citing 18 Pa.C.S. § 9125(b)). However, the ALJ stated that the Companies simply mentioned one sentence in their brief about Section 9125(b) of CHRIA without any development of the argument that the Criminal History Regulation violates CHRIA. I.D. at 27 (citing Respondents’ Brief at 5).

In her disposition, the ALJ explained that, although Section 9125(b) seems dispositive, CHRIA is more complex. For example, the ALJ stated that there are limitations and exceptions not discussed by the Companies, pertaining to who is an allegedly aggrieved party and how such a party may pursue relief under CHRIA. The ALJ summarized her view that it is the prospective employees who are in the position to assert, if they choose, that their constitutional right to pursue the occupation of taxi driver is being unlawfully infringed upon by the Criminal History Regulation. In contrast, the ALJ found that the record before her was inadequate to address the constitutionality of the Criminal History Regulation which would have broad social import. I.D. at 27-28 (citing *Tesmer* and *Singleton*).

Moreover, the ALJ found that the Companies, by raising a facial constitutional challenge at this level, were essentially requiring I&E to defend the legality of the Commission’s promulgation and adoption of the instant Criminal History Regulation. Although acknowledging that I&E defended the Criminal History Regulation as an alternative argument, the ALJ found that the Commission, not I&E, is the proper party to defend against the Companies’ allegations that its Regulation is unconstitutional. I.D. at 28 (citing *Tate v. Columbia Gas of Pennsylvania*, Docket No. C-2020-3018966 (Opinion and Order entered October 10, 2024) (*Tate*)). The ALJ stated that in *Tate*, the Commission held that the Commission, not the gas company, was the proper party to defend against a consumer’s complaint against the gas company which raised an allegation that a Regulation was unconstitutional because, in part, the gas company “merely applied the law in effect.” I.D. at 28 (citing *Tate* at 30).

In this proceeding, the ALJ acknowledged that I&E is an arm of the Commission rather than a private gas company as in *Tate*. However, the ALJ stated that I&E operates as an independent prosecutory arm of the Commission, empowered to investigate violations, initiate enforcement actions, and impose penalties to ensure compliance with the Code, Regulations, or Orders of the Commission. I.D. at 28 (citations omitted). Moreover, pursuant to Act 85 of 2016, the ALJ noted that the Pennsylvania General Assembly charged the Commission with promulgating, *inter alia*, temporary regulations governing driver requirements of taxi and limousine drivers including criminal history background check requirements. I.D. at 28 (citing *Temporary Regulations for the Taxi and Limousine Industries*, Docket No. L-2016-2556432 (Order entered December 23, 2016) (*2016 Order*)). In the *2016 Order*, the Commission explained, after considering the interested parties' comments concerning criminal background checks, that it adopted the General Assembly's treatment and language of transportation network company drivers, finding they should be equally applicable to taxi and limousine drivers. I.D. at 28-29 (citing *2016 Order* at 13-15). Thus, the ALJ found that I&E is not the proper party to defend the Commission's Criminal History Regulation and the present forum is the improper place for doing so. I.D. at 29.

Accordingly, having found that the Companies lacked standing in their facial constitutional challenge to the Regulation, the ALJ next addressed the imposition of the civil penalties pursuant to Section 3301 of the Code, 66 Pa.C.S. § 3301, and Section 69.1201 of the Commission's Policy Statement, 52 Pa. Code § 69.1201. I.D. at 29-30. Here, the ALJ noted that none of the Parties addressed the amount of the fines. Nonetheless, the ALJ found the fines requested by I&E in each Complaint were consistent with fines imposed by the Commission in past cases and granted the requested fines. *Id.* at 31.

C. Motion

In its Motion, I&E requests that the Commission strike the Companies' Exceptions because they were untimely filed. In support, I&E explains that Section 5.533(a) of the Commission's Regulations, 52 Pa. Code § 5.533(a), requires Exceptions to be filed and served within twenty days after an Initial Decision is issued. Here, I&E notes that the Commission duly notified the Respondents of the twenty-day response period pursuant to the *Secretarial Letter* dated June 18, 2025, which enclosed the Initial Decision. Motion at 3, Exh. 1.

I&E explains that the Respondents filed the Exceptions on July 18, 2025, ten days beyond the twenty-day responsive time-period. According to I&E, the Respondents provided no explanation, let alone good cause reason, for the untimely filing. I&E submits that the Companies should be afforded no leniency for their failure to comply with the Commission's procedural Regulations. Motion at 3.

D. Exceptions and Replies

In their Exceptions, the Respondents argue that the ALJ erred in concluding that the Companies lacked standing to challenge the Criminal History Regulation as facially unconstitutional. The Respondents contend that the ALJ incorrectly determined that the Companies were litigating the rights of third parties and therefore lacked standing to challenge the constitutionality of Section 29.505(b) of the Commission's Regulations. According to the Companies, the ALJ committed an error by failing to analyze the issue of standing within the prism of the standing doctrine as applied by the Pennsylvania Supreme Court and the Commonwealth Court. Exceptions at 3.

The Companies assert that a party has standing to sue if he or she has a substantial, direct, and immediate interest in the subject matter of the litigation. Exc. at 4

(citing *Wm. Penn Parking Garage, Inc. v. City of Pittsburgh*, 346 A.2d 269, 280 (Pa. 1975); and *S. Whitehall Twp. Police Serv. v. S. Whitehall Twp.*, 555 A.2d 793, 795 (Pa. 1989)).

The Respondents argue that I&E has issued violations and requested that penalties be assessed on them in each of the joined cases for their alleged violation of the Criminal History Regulation. As a result, the Respondents assert that they have a substantial, direct, and immediate interest in this litigation, specifically whether the Regulation at issue is constitutional. Exc. at 4.

Regarding the ALJ's determination pertaining to the lack of standing, the Respondents contend that they are the ones impacted by the Criminal History Regulation because it strips them of discretion as to who they can and cannot hire. According to the Companies, the Criminal History Regulation itself subjects the carrier to restriction on hiring, and imposes direct consequences upon the carrier if the Regulation is violated. Further, the Respondents proffer that the Companies, and not the potential drivers, face the fines and other consequences if the Criminal History Regulation is violated. Therefore, the Respondents argue that they have a substantial, direct, and immediate interest in this litigation, specifically whether the Criminal History Regulation is constitutional. As a result of the alleged error, the Respondents request that the Commission remand the matter to the ALJ for a decision on the merits. Exc. at 4-5.

If the Commission chooses to engage in a review of the Criminal History Regulation without a remand, the Respondents argue that it should find that 52 Pa Code § 29.505(b) is facially unconstitutional. The Companies submit that the Criminal History Regulation creates a categorical ban against the hiring of certain individuals with prior criminal history without any rational relationship to the Commissions interest in protecting the traveling public. Exc. at 6-7. Additionally, the Respondents proffer that

the Criminal History Regulation improperly creates an irrebuttable presumption that is unconstitutional. *Id.* at 8-9 (citing *Clayton*).

According to the Respondents, Section 29.505(a) of our Regulations highlights that there exists a less restrictive means to accomplish the Commission's objective of protecting the traveling public. The Companies further contend that there is no logical reason that call and demand carriers should be treated differently than contract or common carriers in their ability to exercise discretion to determine if a prospective driver's prior criminal history relates adversely to that person's suitability to provide service safely and legally. Exc. at 8-9.

In summary, the Respondents request that the Commission recognize that the Criminal History Regulation is facially unconstitutional and unenforceable. Further, the Companies request that any citation issued by the Commission for violation of 52 Pa. Code §29.505(b) be dismissed. Exc. at 10.

In its Replies to the Exceptions, I&E argues that the ALJ correctly determined that the Companies lacked standing to pursue a facial challenge to the constitutionality of the Criminal History Regulation. I&E contends that the Respondents, without citing to any precedent, conflate the right to pursue a lawful occupation with the right to employ persons. According to I&E, the Respondents are arguing for the right to employment by asserting the rights of third party employees and thus lack standing. R. Exc. at 2-3.

Alternatively, I&E argues that even if the Respondents had standing to challenge the Criminal History Regulation, the Regulation is presumptively deemed valid with a heavy burden of persuasion imposed on those challenging the presumption. R. Exc. at 3 (citing *West Mifflin Area School District v. Zahorchak*, 4 A.3d 1942, 1048 (Pa. 2010); *Barrel of Monkeys, LLC v. Allegheny County*, 39 A.3d 559, 563

(Pa. Cmwlth. 2012); and *Pocono Manor Investors, LP v. Pa. Gaming Control Bd.*, 927 A.2d 209, 223 (Pa. 2007)). Moreover, I&E submits that the bar to employment is analogous to similar statutory restrictions in state and federal law that are applicable to a wide range of positions. I&E asserts that the purpose of the Criminal History Regulation 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. R. Exc. at 3-4.

Further, I&E argues that the Criminal History Regulation has not impeded the Companies' ability to continue operation as common carriers pursuant to their certificates of public convenience. Specifically, I&E emphasizes that the Respondents provided no evidence that they were unable to hire qualified drivers due to the Criminal History Regulation. Additionally, I&E asserts that the right to work in a particular occupation is not a "fundamental right" and is therefore subject to rational basis review. R. Exc. at 4 (citing *Nixon v. Commonwealth*, 839 A.2d 277, 287 (Pa. 2003)).

I&E contends that 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. Thus, I&E argues that if the Respondents are deemed to have standing, the Commission should find the Criminal History Regulation as being constitutional because it is rationally related to the Commission's interests. R. Exc. at 4-5.

E. Disposition

As a preliminary matter, we are required to address I&E's Motion, wherein it requests the striking of the Exceptions as being untimely filed. It is clear that the Exceptions were served pursuant to the *Secretarial Letter* on June 18, 2025. The *Secretarial Letter* stated that any Exceptions to the Initial Decision must be filed within twenty days of the date of the letter, that is, on or before July 8, 2025. This directive was

consistent with Section 5.533(a) of our Regulations, 52 Pa. Code § 5.533(a). On July 18, 2025, ten days after the due date, counsel for the Respondents filed Exceptions.

I&E asserts that the Respondents “provided no explanation let alone good cause for its untimely filing and should not be afforded leniency for its failure to comply with the Commission’s procedural regulations.” Motion at 3. The Companies did not file an Answer to the Motion.

Under the circumstances, we are constrained to agree with I&E. The Respondents have provided no explanation – let alone any good cause reason – for the failure to timely comply with the directive in the *Secretarial Letter* and our procedural Regulations. Accordingly, we shall grant the request to strike the Exceptions and shall not consider them.

Additionally, upon independent review of the Initial Decision, we agree with the ALJ’s determination that the Companies lacked standing to assert a facial constitutional challenge to the Criminal History Regulation.

As discussed in the Initial Decision, the Companies based their standing on their status as certificated carriers and that they were cited for violating the Criminal History Regulation. The Respondents premised their constitutional claims as the right to pursue a lawful occupation which is guaranteed under Art. I, § 1. Here, the Companies argued that the Criminal History Regulation infringed “upon an individual’s right to pursue the occupation of taxi driver, and subjects certificated carrier [sic] to punishment if a carrier were to hire such individuals.” Respondents’ Brief at 4. Critically, however, the Companies did not contend that the Criminal History Regulation impeded their ability to pursue their desired occupation as call and demand carriers. Indeed, as explained by the ALJ, there was a lack of any evidence that the Companies were unable to hire

qualified drivers because of the Criminal History Regulation, thereby making it impossible for them to operate their Companies. I.D. at 26.

The ALJ acknowledged that a carrier may be cited for hiring a driver in violation of the Criminal History Regulation which occurred in these cases. However, she reasoned that this fact does not give rise to a claimed infringement on the occupation of the carrier. Moreover, the ALJ determined that it was insufficient for the Companies to base their facial constitutional challenge on the argument that the Criminal History Regulation removed their discretion to determine when they may employ certain convicted felons. The ALJ reasoned that the right to assert the instant constitutional challenge, if any, would belong to the prospective taxi or limousine driver who was denied employment based on the applicant's criminal convictions under the Criminal History Regulation. I.D. at 26-27 (citing *Singleton*, 428 U.S. at 114-17 and *Temer*, 543 U.S. at 129).

We agree with the ALJ's application of the relevant case law – including the explanation of the rationale supporting the caselaw – that a party cannot assert the rights of a third party but can only assert their own legal rights and interests. *See also Mid-Atlantic Power Supply Ass'n v. Pa. PUC*, 746 A.2d 1196, 1200 (Pa. Cmwlth. 2000) (“A party may not claim standing to vindicate the rights of a third party who has the opportunity to be heard.”). Specifically, the Respondents failed to assert that the applicant drivers were in any way hindered in their ability to protect their own interests by challenging the Criminal History Regulation. Additionally, there was no evidence to support the contention that the Criminal History Regulation infringed on the right of Mr. Ahmed to pursue ownership and operation of his call and demand Companies. *See* I.D. at 26-27.

Finding no error in the ALJ's analysis and disposition, we shall adopt the Initial Decision which sustained I&E's Complaints against the Companies. Accordingly,

in the ordering paragraphs below, we shall direct that: (1) Best Taxi shall remit a civil penalty in the amount of \$1,050, within thirty (30) days of the entry date of this Opinion and Order; and, (2) Good Cab shall remit a civil penalty in the amount of \$1,800, within thirty (30) days of the entry date of this Opinion and Order.

IV. Conclusion

Based on the foregoing discussion, we shall grant the Motion and strike the untimely filed Exceptions of the Respondent and shall adopt the Initial Decision issued by ALJ Chiodo on June 18, 2025, consistent with this Opinion and Order;

THEREFORE,

IT IS ORDERED:

1. That the Motion to Strike the Untimely Filed Exceptions of Best Taxi, LLC and Good Cab, LLC, filed by the Commission's Bureau of Investigation and Enforcement on July 28, 2025, is granted.

2. That the Exceptions filed by Best Taxi, LLC and Good Cab, LLC on July 18, 2025, are stricken consistent with this Opinion and Order.

3. That the Initial Decision of Deputy Chief Administrative Law Judge Gail M. Chiodo, issued on June 18, 2025, is adopted, consistent with this Opinion and Order.

4. That the Formal Complaint of the Commission's Bureau of Investigation and Enforcement filed against Best Taxi, LLC at Docket No. C-2022-3029070 is sustained.

5. That the Formal Complaint of the Commission’s Bureau of Investigation and Enforcement filed against Good Cab, LLC at Docket No. C-2022-3029079 is sustained.

6. That within thirty (30) days of the entry date of this Opinion and Order, Best Taxi LLC shall remit a total of \$1,050 (\$1,000 for violating 52 Pa. Code § 29.505(b)(1) and \$50 for violating 52 Pa. Code § 29.313(c)), payable by certified check or money order to the “Commonwealth of Pennsylvania” with the docket number of C-2022-3029070, and sent to:

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

7. That within thirty (30) days of the entry date of the Final Commission Order in this matter, Good Cab LLC shall remit a total of \$1,800, broken down as follows:

- (a) \$250 per each of the three employees for violating 52 Pa. Code § 29.505(b)(1) (relating to failure to review the criminal histories of three employees);
- (b) \$1,000 for violating 52 Pa. Code § 29.505(b)(1) (relating to allowing one employee to operate company vehicles even though, due to his criminal history, was not qualified or suitable for providing safe transportation); and
- (c) \$50 for violating 52 Pa. Code § 29.313(c).

Said total in this paragraph, \$1,800, shall be payable by certified check or money order to the “Commonwealth of Pennsylvania” with the docket number of C-2022-3029079, and sent to:

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

8. That if payments totaling \$1,050 pursuant to Ordering Paragraph No. 6 above are not received by the Commission within thirty (30) days after entry of this Opinion and Order, the Commission’s Bureau of Technical Utility Services shall suspend or revoke Best Taxi LLC’s Certificate of Public Convenience at Docket No. A-2016-2529890.

9. That if payments totaling \$1,800 pursuant to Ordering Paragraph No. 7 above are not received by the Commission within thirty (30) days after entry of this Opinion and Order, the Commission’s Bureau of Technical Utility Services shall suspend or revoke Good Cab LLC’s Certificate of Public Convenience at Docket No. A-0012086.

10. That if Best Taxi LLC fails to make the civil penalty payment required by Ordering Paragraph No. 6 above, within thirty (30) days of the entry date of this Opinion and Order, the Commission’s 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.

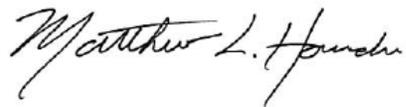
11. That if Good Cab LLC fails to make the civil penalty payment required by Ordering Paragraph No. 7 above, within thirty (30) days of the entry date of this Opinion and Order, the Commission’s Bureau of Administrative Services,

Assessment Section, shall refer this matter to the Pennsylvania Office of Attorney General for collection of the total set forth above and appropriate action.

12. That the record, at Docket No. C-2022-3029070, shall be marked closed upon payment of the civil penalty set forth in Ordering Paragraph No. 6 above.

13. That the record at Docket No. C-2022-3029079 shall be marked closed upon payment set forth in Ordering Paragraph No. 7 above.

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: September 25, 2025

ORDER ENTERED: September 25, 2025