



CORY A. LESHNER, ESQUIRE

E-MAIL: CALeshner@mette.com

March 4, 2026

VIA REGULAR MAIL

DATE OF DEPOSIT

Matthew Homsher,
Secretary Pennsylvania Public Utility Commission
P.O Box 3265
Harrisburg, PA 17105-3265

MAR - 4 2026

PA Public Utility Commission
Secretary's Bureau

Re: Best Taxi LLC, et al., v. PUC
Docket No. 1307 CD 2025

Mr. Homsher,

Enclosed please find a brief for petitioners relating to the above matter.

Thank you for your time and consideration. Should you need anything additional from me, please do not hesitate to call.

Very truly yours,

By: Cory A. Leshner, Esquire

Encl.
CAL/ekh

BEFORE THE COMMONWEALTH COURT OF PENNSYLVANIA

No. 1307 CD 2025

BEST TAXI, LLC and GOOD CAB, LLC,
Petitioners,

v.

PENNSYLVANIA PUBLIC UTILITY COMMISSION, and BUREAU OF
INVESTIGATION AND ENFORCEMENT,
Respondents.

Appeal of Final Order of the Pennsylvania Public Utility Commission dated
September 25, 2025 at PA PUC Docket Nos. C-2022-3029070 and C-2022-
3209079

BRIEF FOR PETITIONERS

Respectfully Submitted,

Mette, Evans & Woodside

BY: /s/ Cory A. Leshner
Cory A. Leshner, Esquire
ID#: 310377

/s/ Michael Farabella
Michael Farabella, Esquire
ID#: 333828

3401 N Front Street
Harrisburg, PA 17110
(717) 909-9999

caleshner@mette.com
mwfarabella@mette.com

Counsel for Petitioners

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STATEMENT OF JURISDICTION

The Final Order appealed from is appealable as of right pursuant to Pa.
R.C.P. 341.

ORDER OR OTHER DETERMINATION IN QUESTION

See Appendix A attached hereto.

SCOPE AND STANDARD OF REVIEW

For questions of constitutional law, the Commonwealth Court's scope of review is plenary, and its standard of review is *de novo*. *Hughes v. Pa. Pub. Util. Comm'n*, 322 A.3d 982, 989 n.5 (Pa. Cmwlth. 2024), *reconsideration denied* (Oct. 1, 2024), *appeal denied*, 340 A.3d 267 (Pa. 2025).

STATEMENT OF QUESTIONS INVOLVED

- I. Did the PUC err when it failed to analyze the issue of standing within Pennsylvania's standing doctrine that has been developed by our Supreme and Commonwealth Courts?

SUGGESTED ANSWER: YES.

- II. Did the PUC err when it found that Petitioners challenged the code on behalf of third parties?

SUGGESTED ANSWER: YES.

- III. Did the PUC err when it failed to reach a decision on the merits of Petitioner's arguments as to the facial constitutionality of the regulation at issue?

SUGGESTED ANSWER: YES.

- IV. Did the PUC err when it determined that the code was constitutional under the rational basis standard?

SUGGESTED ANSWER: YES.

STATEMENT OF THE CASE

PROCEDURAL HISTORY

This is an appeal from the Pennsylvania Public Utility Commission's (herein "PUC") Final Order of September 25, 2025, which adopted the Deputy Chief Administrative Law Judge's (herein "ALJ") decision to deny the petitions of Best Taxi, LLC and Good Cab, LLC (herein "Petitioners"). PUC's Bureau of Investigation and Enforcement (herein "I&E") filed complaints against Petitioners on February 9, 2022 and February 14, 2022 for "allow[ing] 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 § 9.505(b)(1)" and "fail[ing] 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)."¹ (Reproduced Record herein "R.R." at 103). On March 4, 2022, Petitioners filed answers to their respective complaints and a hearing was held on June 21, 2022 for Good Cab and July 19, 2022 for Best Taxi.² (R.R. at 129). Both cases were consolidated on September 23, 2022 and all parties filed briefs by November 15, 2024. (R.R. at 129). The ALJ's initial decision was issued on June 18, 2025 which denied the Petitioners' constitutional challenge to Section

¹ Petitioners were also alleged to have committed violations against 52 Pa. Code § 29.313(c) failure to require the driver to maintain log sheets for all trips, which are not subject to this appeal.

² Best Taxi was docketed at No. C-2022-3029070 and Good Cab was docketed at No. C-2022-3029079.

29.505(b)(1) of the PUC's Regulations, sustained the Complaints, and imposed the fines requested by I&E. Petitioners filed exceptions on July 18, 2025 and I&E filed Reply Exceptions and a Motion to Strike Petitioners' Exceptions. (R.R. at 130). The PUC issued its Opinion and Order on September 25, 2025 and Petitioners filed their Notice of Appeal on October 9, 2025.

FACTUAL HISTORY

Petitioner Good Cab, LLC was issued a certificate of public convenience by this Commission authorizing transportation of passengers in taxi authority on June 22, 2005 at Pa. PUC utility code no. 632578. and Petitioner Best Taxi, LLC was issued a certificate of public convenience authorizing transportation of passengers in taxi authority by this Commission on March 24, 2017, at Pa. PUC utility code no. 6318529. (R.R. at 185). Petitioners operate as certified carriers and are domestic limited liability companies in Pennsylvania. Both companies are owned and operated by Maher Saber Ahmed who has over 20 years' of experience in the taxicab industry and owns several other taxicab businesses. (R.R. at 186). The Petitioners are based in Dauphin County, Pennsylvania, and provide call and demand driver services in the local area and certain locations out-of-state. (R.R. at 98).

On October 7, 2021, Travis Griffith, an enforcement officer (herein "EO Griffith") in the PUC's Motor Carrier Division conducted an inspection of Good Cab, LLC. EO Griffith inspected five cars and their drivers. (R.R. at 30). EO

Griffith determined that Good Cab did not have criminal histories on file and that driver, Brian Hickman, had two criminal convictions from September 26, 2006 and December 5, 2017 on his record that disqualified him from being a call and demand driver.³ (R.R. at 36). On October 6, 2021, Barry Pacovsky, an enforcement officer (herein "EO Pacovsky") in the PUC's Motor Carrier Division conducted an inspection of Best Taxi, LLC. EO Pacovsky determined that driver, Harvell Johnson, had a disqualifying criminal conviction from August 11, 2015 on his criminal history.⁴ (R.R. at 100). Respondent, via Mr. Ahmed, was aware of Mr. Johnson's criminal conviction prior to being hired. (R.R. at 100). Mr. Ahmed, using his experience and judgment, determined that Mr. Johnson's criminal history was not relevant to the position of taxi driver and thus should not disqualify him from the position. (R.R. at 100). Despite the felony conviction, Mr. Ahmed decided to hire Mr. Johnson as a taxi driver for Best Taxi, LLC. I&E's formal complaint does not allege any violations by or attributable to Mr. Johnson or Mr. Hickman other than they were acting as taxi drivers where they should have been disqualified from doing so due to their criminal history pursuant to 29.505(b)(1)(i)(D). (R.R. at 187).

³ The following crimes were found to be disqualifying: 35 P.S. § 780-113 §§ A30 Possession with Intent to Distribute (F); 18 § 3701 §§ A11 Robbery-Inflict Serious Bodily Injury (F1).

⁴ The following crime was found to be disqualifying: 35 P.S. § 780-113 §§ A30 Possession with Intent to Distribute (F).

SUMMARY OF THE ARGUMENT

The PUC failed to analyze the issue of standing within the prism of the standing doctrine that has been developed by our Supreme and Commonwealth Courts. Under Pennsylvania's "standing doctrine" Petitioners have standing as it applies to the challenge of 52 Pa. Code § 29.505(b)(1), because the code prohibits hiring employees with disqualifying criminal history within an arbitrary period of time and as a result, dictates whom Petitioners may or may not hire.

Petitioners are not challenging the code on behalf of third parties as they are directly impacted by the code through the implementation of fines and suspension of licensure. Petitioners have a "direct interest" in the controversy at issue, hiring who they wish, and there is a legitimate controversy before the court, criminal history prohibiting employment. Additionally, Petitioners may challenge the code on its face because it deprives any call and demand carrier the right to hire a qualified candidate based on discriminating and arbitrary factors unrelated to the job. The code may be facially challenged because looking at the text alone as it cannot be applied constitutionally in any circumstance.

Furthermore, The code is an exercise of the police power which is unreasonable as it makes call and demand employers unable to hire prospective employees based on their

criminal history, unduly oppressive as it restricts the employer's right to due process, and patently beyond the necessities of the case as the crimes are wholly unrelated to the qualifications of the job, and the means which it employs, providing an arbitrary time frame from when prospective employees are ineligible, does not have a real and substantial relation to the objects sought to be attained.

WHEREFORE, Petitioners respectfully request that this Court reverse the Final Order of the PUC in this matter and explicitly enter an Order that Petitioners possess the requisite standing to challenge the regulation at issue. Petitioners' further request that this Court enter an Order that 52 Pa Code §29.505(b) is facially unconstitutional.

ARGUMENT

I. The PUC erred when it failed to analyze the issue of standing within Pennsylvania's standing doctrine that has been developed by our Supreme and Commonwealth Courts.

The PUC failed to analyze the issue under the standing doctrine because Petitioners have a substantial, direct, and immediate interest in this litigation, specifically whether the regulation at issue is constitutional. Pennsylvania's "standing doctrine" is well-settled case law based on federal constitutional principles that ensure the correct parties are pursuing a matter in court. See *In re T.J.*, 559 Pa. 118, 739 A.2d 478, 481 (Pa. 1999). "Specifically, a party has standing to sue if he or she has a substantial, direct, and immediate interest in the subject matter of the litigation. *Wm. Penn Parking Garage, Inc. v. City of Pittsburgh*, 346 A.2d 269, 280 (Pa. 1975). "A 'substantial' interest is an interest in the outcome of the litigation which surpasses the common interest of all citizens in procuring obedience to the law. A 'direct' interest requires a showing that the matter complained of caused harm to the party's interest. An 'immediate' interest involves the nature of the causal connection between the action complained of and the injury to the party challenging it, and is shown where the interest the party seeks to protect is within the zone of interests sought to be protected by the statute or constitutional guarantee in question." *S. Whitehall Twp. Police Serv. v. S. Whitehall Twp.*, 555 A.2d 793, 795 (Pa. 1989).

Petitioners are both call and demand carriers that provide taxi services to the public. The ability of either company to hire who they deem to be necessary for the job is a "direct interest" as defined in common law, because the prohibition on carriers to not hire certain people with disqualifying criminal history is exactly what is contemplated in the code:

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 § 505(a)(3) (emphasis added). Petitioners are not allowed to hire who they want. This is a "direct interest" for Petitioners because if they do hire someone prohibited by the above parameters, they are cited with fines and the potential to lose their carrier license. Furthermore, between two hypothetical candidates, a person who has qualifications with a disqualifying criminal history and a person with zero qualifications and no disqualifying criminal history present Petitioners with two bad options. Either exercise your rights to hire who you want and get penalized for it, or chose a person who is unqualified to drive that could negatively impact the business and present safety hazards. Specifically in this case, Petitioners hired two individuals whom otherwise were qualified and were forced to fire them, pay a fine, and lose certification as a penalty for non-payment.

While it is true the ban looks to the prospective employee's criminal history, the regulation itself subjects the carrier more as the prospective

employee is not the one who faces penalty, the employer does. In this case, Petitioners appealed the PUC but failed to pay the fine. As a result the PUC approved the cancellation of Petitioner Good Cab's certificate of public convenience. The PUC held that the ALJ's decision on standing was accurate because the application of the regulation did not prevent Good Cab from operating as a certificated carrier. However, following the Secretary's cancellation of Good Cab's certificate of public convenience, circumstances have changed. Now, enforcement of the regulation that Good Cab challenges has in fact resulted in Good Cab as a carrier suffering the consequence of an inability to continue to operate as a certificated carrier.

Therefore, Petitioners have a substantial, direct, and immediate interest in this litigation, specifically whether the regulation at issue is constitutional.

II. The PUC erred when it found that Petitioners challenged the code on behalf of third parties.

Petitioners are not challenging the code on behalf of third parties as they are directly impacted by the statute through the implementation of fines and loss of licensure. A party may not claim standing to vindicate the rights of a third party who has the opportunity be heard. *Pennsylvania Dental Assoc. v. Commonwealth of Pennsylvania, Department of Health*, 461 A.2d 329 (Pa. Cmwlth. Ct. 1983). As described above, for a party to have standing, it must have a direct interest in the controversy at issue, and there must be a legitimate controversy before the court. Petitioners have a legitimate issue before this court as Petitioners have a right to due process regarding facially

unconstitutional law. In terms of interest, we know Petitioners have a direct interest in the controversy at issue because Petitioners incurred fines and Petitioner Good Cab specifically lost its carrier license. The employees were fired, but they would have not been working for Petitioners regardless if the unconstitutional code was applied. In the Initial Decision which was upheld by the Final Order, the ALJ stated that standing existed on the part of the employee and not Petitioners pursuant to *Mid-Atl. Power Supply Ass'n v. Pennsylvania Pub. Util. Comm'n*,. In that case PECO sued on behalf of their ratepayers. The relevant portion states, "without establishing that PECO sustained direct, immediate and substantial harm by the PUC's Final Order, PECO fails to qualify as a 'substantially interested party' who is aggrieved sufficiently to have standing in this matter." *Mid-Atl. Power Supply Ass'n v. Pennsylvania Pub. Util. Comm'n*, 746 A.2d 1196, 1200 (Pa. Cmwlth. Ct. 2000) (quoting 2 Pa. C.S. § 702; *William Penn Parking Garage, Inc. v. City of Pittsburgh*, 346 A.2d 269 (Pa. 1975)). "PECO does not assert that the disclosure will spur competition and cause pecuniary harm to PECO. Rather PECO allegedly attacks the PUC's Final Order on the ground that its customers' rights were not fully respected. PECO does not represent the interests of its ratepayers." *Id.* Finally,

Section 902-A of the Administrative Code statutorily provided for the OCA to represent the interests of consumers before the PUC, and the OCA, as intervenor, submitted its brief in support of the PUC's Final Order. PECO was not aggrieved by the order to release specified customer information to all licensed suppliers of electricity and therefore lacks standing.

Mid-Atl. Power Supply Ass'n v. Pennsylvania Pub. Util. Comm'n, 746 A.2d 1196, 1200 (Pa. Cmwlth. Ct. 2000) (emphasis added). Here, the effect of the law on Petitioners does spur competition and did cause pecuniary harm to Petitioners through fines, penalties, and loss of certification as a result of not paying the fines. Both companies are still unable to hire who they wish as a result of the code in question. In fact, any carrier company is prohibited from doing so under the law.

Therefore, because there is a legitimate issue before this Court, and the statute "spurs competition and causes pecuniary harm" to Petitioners, they directly affected by the code and are not challenging it on behalf of third parties.

III. The PUC erred when it failed to reach a decision on the merits of Petitioner's arguments as to the facial constitutionality of the regulation at issue.

Petitioners may challenge the code on its face because it deprives any call and demand carrier the right to hire a qualified candidate based on discriminating and arbitrary factors unrelated to the job. "A statute is facially unconstitutional only where there are no circumstances under which the statute would be valid." *Germantown Cab Co. v. Phila. Parking Auth.*, 651 Pa. 604, 206 A.3d 1030, 1041 (Pa. 2019). "A facial attack tests a law's constitutionality based on its text alone and does not consider the facts or circumstances of a particular case." *Peake v. Commonwealth*, 132 A.3d 506, 517 (Pa. Cmwlth. 2015) (quoting *Commonwealth v. Brown*, 26 A.3d 485, 493

(Pa. Super.2011)). "In determining whether a statute is facially invalid, courts do not look beyond the statute's explicit requirements or speculate about hypothetical or imaginary cases." *Germantown Cab Co.*, 206 A.3d at 1041. In this case, the relevant portion of the statute in question is 52 Pa. Code § 29.505(b)(1) which states:

(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 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:

. . .

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

In *Taha*, the court recognized that under the Criminal History Information Act (herein "CHIRA") state licensing agencies "shall not" consider certain criminal history record information when determining eligibility for professional licenses and certifications, and that private employers may only consider criminal history record information in certain circumstances. *Taha v. Bucks Cty. Pa.*, 367 F. Supp.

3d 320, 329 (E.D. Pa. 2019). Under § 9125(b). *Use of records for employment. Use of Information*, "felony and misdemeanor convictions may be considered by the employer only to the extent at which they relate to the applicant's suitability for employment in the position for which he has applied." (emphasis added).

The criminal convictions at issue here are Felony theft, Robbery and PWI which wholly unrelated to driving a taxicab. The PUC in its Final Opinion opined that the E.O. was correct when he stated a cab driver is directly responsible to their passenger's safety, and hiring people with these types of crimes would cause danger in the carrier community. Without looking past the text of the statute, there is no correlation to performance of driving a cab and the crimes that disqualify someone from driving. Furthermore, it applies an arbitrary time frame to offenses in which a person is eligible to work for a call and demand carrier. For a driver with the same exact offenses as someone outside the time frame, showing no sign of rehabilitation, they may drive a cab solely on the tolling of time.

Petitioners may attack the code on its face because it deprives any call and demand carrier the right to hire a qualified candidate based on discriminating and arbitrary factors unrelated to the job. Therefore, the statute is facially invalid as there are no circumstances in which the statute would be valid.

IV. The PUC erred when it determined that the code was constitutional under the rational basis standard.

The code is unconstitutional under the rational basis standard because it deprives the employers the right to hire who they want without due process by deeming a percentage of the population to be unavailable as employees based on arbitrary and unrelated reasons that are not substantially related to the Commonwealth's goal of protecting the public.

A. The Rational Basis standard applies.

The Fourteenth Amendment to the United States Constitution provides that no state may "deprive any person of life, liberty, or property, without due process of law." U.S. Const., amend. XIV. Pennsylvania's version reads, "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." Pa. Const., art. I, § 1. Pennsylvania adopted a stricter version for its rational basis test as well, "a law which purports to be an exercise of the police power must not be unreasonable, unduly oppressive or patently beyond the necessities of the case, and the means which it employs must have a real and substantial relation to the objects sought to be attained." *Gambone*, 101 A.2d 634 at 636-37 (citation and footnotes omitted).

Here, the rational basis test applies as we are concerned with a substantive component concerning arbitrary law. See, e.g., *Williamson v. Lee Optical Co.*,

348 U.S. 483, 75 S. Ct. 461, 99 L. Ed. 563 (1955) (holding that substantive due process did not protect unlicensed eye care professionals against statute requiring licensure for preparation and sale of eyeglasses); *Nixon v. Commonwealth*, 576 Pa. 385, 839 A.2d 277 (Pa. 2003) (holding a lifetime ban on elderly care workers who committed specific offenses violated substantive due process).

B. 52 Pa. Code § 29.505(b)(1) creates an irrebuttable presumption that an employer may not hire an employee with specific criminal history by the mere fact it is stated within the statute.

Irrebuttable presumptions often run afoul of due process protections because they infringe upon protected interests by utilizing presumptions that the existence of one fact [is] statutorily conclusive of the truth of another fact." *Id.* (internal citations omitted). Our Supreme Court has explained that "an irrebuttable presumption is not constitutional where: (1) it encroaches on an interest protected by the due process clause; (2) the presumption is not universally true; and (3) reasonable alternative means exist for ascertaining the presumed fact." *Department of Transportation, Bureau of Driver Licensing v. Clayton*, 684 A.2d 1060, 1063 (Pa. 1996).

Here, a call and demand carrier is prevented from hiring people with criminal histories unrelated to driving in general or specific to driving a cab, for an arbitrary period of time. Finally, the means it employees do not have a real and substantial relation to the goals. Deterrence cannot be the reason because the majority of crimes that prohibit a license are not related to being a call and demand carrier. If sexual assault or theft is correlated to unsafe

driving conditions in a public or commercial setting, why are ambulance drivers only required to have a standard driver's license, a clean driving record, and proper training?¹

Next the code creates an unconstitutional irrebuttable presumption because it uses criminal history to make a person unqualified to drive a cab. It encroaches on the interest of the carrier to hire who they want, criminal history committed within the span of seven or ten years does not universally mean a person is unqualified to drive a taxicab, and a reasonable alternative of scrutinizing the prospective driver's driving history would directly correlate to their qualifications to drive a cab. *DOT, Bureau of Driver Licensing v. Clayton*, 684 A.2d at 1063. Therefore, the mere fact the employer has a criminal history which is forbidden by the statute, means he must be dangerous to the public and the employer is forbidden from hiring him.

C. 52 Pa. Code § 29.505(b)(1) is unconstitutional under Rational Basis scrutiny.

The statute here is unreasonable, unduly oppressive or patently beyond the necessities of the case as there is no correlation to the state's interest in preventing employers from hiring those who have been prosecuted with drug delivery, theft, sexual assault, or any other non-driving offense.

"Legislation enacted by the General Assembly enjoys a presumption of constitutionality." *Germantown Cab Co. v. Philadelphia Parking Authority*, 651

¹ 35 § 8122(a)(7)(i)-(ii). *Emergency medical services vehicle operators.*

Pa. 604, 206 A.3d 1030, 1041 (Pa. 2019). "Accordingly, a statute will not be declared unconstitutional unless it clearly, palpably, and plainly violates the Constitution." *Id.* (internal citation omitted) (emphasis added). "Any doubts about whether a challenger has met this high burden are resolved in favor of finding the statute constitutional." *Germantown Cab Co.*, 206 A.3d at 1041. "It is against the public policy of the Commonwealth to summarily reject an individual for employment on the ground that the individual has a prior criminal record unless in doing so the employer is furthering a legitimate public objective." *El v. Se. Pennsylvania Transp. Auth.*, 297 F.Supp.2d 758, 761 (E.D. Pa. 2003). However, "the means employed to reach the desired end cannot be 'unreasonable, unduly oppressive or patently beyond the necessities of the case;' rather, they 'must have a real and substantial relation to the objects sought to be attained.'" *Peake v. Com.*, 132 A.3d at 521 (citing *Gambone*, 101 A.2d at 637).

In *Peake*, this Court was presented a similar problem in employment of individuals with criminal history who pursued lawful employment in a senior care facility. *Peake v. Commonwealth*, 132 A.3d 506 (Pa. Cmwlth. 2015). It cited to *Nixon I* where prospective employees were permanently banned from Act facilities if they had worked there for within a year of the enactment of the statute. *Nixon v. Commonwealth*, 789 A.2d 376 (Pa. Cmwlth. 2001). This Court held that the criminal history provisions of the Act were "arbitrary and irrational" and that "no rational relationship exists between the classification imposed upon Petitioners and a legitimate governmental purpose." *Id.* at 382.

Our Supreme Court affirmed for a different reason in *Nixon II*. The court pointed out that

If the goal of the criminal records chapter is, as the Commonwealth Parties allege, to protect the Commonwealth's vulnerable citizens from those deemed incapable of safely providing for them, there was simply no basis to distinguish caretakers with convictions who had been fortunate enough to hold a single job since July 1, 1997, i.e., a year before the effective date of the chapter, from those who may have successfully worked in the industry for more than a year but had not held one continuous job in a covered facility since July 1, 1997.

Id. at 289. "The criminal records chapter, particularly with regard to its application to the Employees, does not bear a real and substantial relationship to the Commonwealth's interest in protecting the elderly, disabled, and infirm from victimization, and therefore unconstitutionally infringes on the Employees' right to pursue an occupation." *Nixon v. Commonwealth*, 839 A.2d 277, 290 (Pa. 2003); See *Gambone v. Commonwealth*, 101 A.2d 634, 637 (Pa. 1954) (striking down law as unconstitutional for arbitrarily interfering with appellee's right to pursue business "under the guise of protecting the public interests"). Indeed, it said protecting the elderly is an important interest for the Commonwealth, but the Act's permanent ban did not hold a real and substantial relationship to the time frame. *Id.*

In our case, the employment ban in 29.505(b)(1) as it relates to crime and the time requirement "do not bear a real and substantial relationship" to the Commonwealth's goals. Cab drivers interact with vulnerable populations similar to the Petitioners in *Nixon*. They are essentially captive to the person driving until they are dropped off or run out of the vehicle. If we make the

analogy to the Act in *Nixon* and the statute here, the statute violates the Petitioners' right to hire for their businesses because there is no rational relationship between 7 years for one, 10 for another, and a lifetime ban for still another person the carrier is not allowed to hire. Petitioners are not arguing the Commonwealth has absolutely no interest in protecting patrons of call and demand carriers. However, it is arbitrarily interfering with the rights of call and demand carriers from hiring who they want.

Furthermore, the application of the statute applies unequally and in different ways among each employer. Each employer is beholden to the population of the area in which they are hiring. A person who is otherwise qualified to drive a taxi cab is prohibited from doing so at seven or ten years for the listed offenses but not at the eight or eleven year mark. This arbitrary benchmark is not based on theory or evidence based analysis. In fact, there is no indication the year requirement provided by the statute are based on anything outside the legislation picking at random since the statute is silent. Therefore, this Court must find the statute to be unconstitutional because it deprives the employers due process by deeming a percentage of the population to be unavailable as employees based on arbitrary and unrelated reasons that are not substantially related to the Commonwealth's goal.

CONCLUSION

WHEREFORE, Petitioners respectfully request that this Court reverse the Final Order of the PUC in this matter and explicitly enter an Order that Petitioners possess the requisite standing to challenge the regulation at issue. Petitioners further request that this Court enter an Order that 52 Pa Code §29.505(b) is facially unconstitutional.

Respectfully Submitted,

Mette, Evans & Woodside

BY: /s/ Cory A. Leshner
Cory A. Leshner, Esquire
ID#: 310377
/s/ Michael Farabella
Michael Farabella, Esquire
ID#: 333828
3401 N Front Street
Harrisburg, PA 17110
(717) 909-9999
caleshner@mette.com
mwfarabella@mette.com
Counsel for Petitioners

APPENDIX

APPENDIX "A"
FINAL ORDER

**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 hindrance 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,



Matthew L. Homsher
Secretary

(SEAL)

ORDER ADOPTED: September 25, 2025

ORDER ENTERED: September 25, 2025

CERTIFICATE OF COMPLAINT

I certify that this filing complies with the provisions of the *Case Records Public Access Policy of the Unified Judicial System of Pennsylvania* that require filing confidential information and documents differently than non-confidential information and documents.

Mette, Evans & Woodside

BY: /s/ Cory A. Leshner
Cory A. Leshner, Esquire
ID#: 310377

/s/ Michael Farabella
Michael Farabella, Esquire
ID#: 333828

3401 N Front Street
Harrisburg, PA 17110
(717) 909-9999
caleshner@mette.com
mwfarabella@mette.com
Counsel for Petitioners

BEFORE THE COMMONWEALTH COURT OF PENNSYLVANIA

No. 1307 CD 2025

BEST TAXI, LLC and GOOD CAB, LLC,
Petitioners,

v.

PENNSYLVANIA PUBLIC UTILITY COMMISSION, and BUREAU OF
INVESTIGATION AND ENFORCEMENT,
Respondents.

Appeal of Final Order of the Pennsylvania Public Utility Commission dated
September 25, 2025 at PA PUC Docket Nos. C-2022-3029070 and C-2022-
3209079

REPRODUCED RECORD

Respectfully Submitted,

Mette, Evans & Woodside

BY: /s/ Cory A. Leshner
Cory A. Leshner, Esquire
ID#: 310377

/s/ Michael Farabella
Michael Farabella, Esquire
ID#: 333828

3401 N Front Street
Harrisburg, PA 17110
(717) 909-9999

caleshner@mette.com
mwfarabella@mette.com
Counsel for Petitioners

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COMMONWEALTH OF PENNSYLVANIA
PUBLIC UTILITY COMMISSION

BUREAU OF INVESTIGATION) Docket No.: C-2022-3029070
& ENFORCEMENT)
)
v.)
) Commonwealth Keystone Bldg.
BEST TAXI LLC) Judge's Chambers, 400 North Street
) Harrisburg, PA 17120
Initial Call-in)
Telephonic Hearing)
Tuesday, July 19, 2020
Commencing at 10:05 a.m.

BEFORE: Dennis Buckley, Administrative Law Judge
(via telephone)

APPEARANCES:
FOR THE COMPLAINANT:
Alphonso Arnold, III, Esq.: (via telephone)
PENNSYLVANIA PUBLIC UTILITY COMMISSION
400 North Street, 4th Floor
Harrisburg, Pennsylvania 17120
717-787-9836
alphonarno@pa.gov

FOR THE RESPONDENT:
Cory A. Leshner, Esq.: (via telephone)
LAW OFFICES OF CORY A. LESHNER, LLC
415 Market Street, Suite 204
Harrisburg, Pennsylvania 17104
717-909-9999
Cal@coryleshner.com

ALSO PRESENT: (via telephone)
Ann Scott Weslowski
Officer Barry Pacovsky
Mr. Maher Saber Ahmed

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AUTHORIZATION FROM THE CERTIFYING AGENCY

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1 A-r-n-o-l-d. I am the prosecutor representing
2 the PUC in the Bureau of Investigation &
3 Enforcement.

4 I have with me one witness, Mr. Barry
5 Pacovsky, and would you like that name spelled,
6 as well, Your Honor?

7 JUDGE BUCKLEY: Why don't you go
8 ahead for the court reporter, yes.

9 MR. ARNOLD: Barry is spelled
10 B-a-r-r-y, last name Pacovsky, P-a-c-o-v-s-k-y.

11 JUDGE BUCKLEY: Thank you.
12 Attorney Leshner.

13 MR. ARNOLD: Good morning,
14 Your Honor. My name is Attorney Cory Leshner,
15 L-e-s-h-n-e-r.

16 JUDGE BUCKLEY: All right.

17 MR. LESHNER: I am here today on
18 behalf of the carrier, Best Taxi, LLC, and I
19 will be presenting one witness, the owner of
20 Best Taxi, LLC, his name is Maher Saber Ahmed,
21 his last name is spelled A-h-m-e-d.

22 JUDGE BUCKLEY: Very well, thank you.

23 Let's go off the record for a few
24 minutes, I'd like to discuss a few preliminaries
25 with Counsel, so we are off-record.

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(Whereupon, at 10:09 a.m. an off-the-record
discussion commenced, the proceedings to resume at
10:59 a.m.)

JUDGE BUCKLEY: We have had an
extensive discussion off the record with both
Counsel and myself with respect to a number of
procedural matters here and, without belaboring
the point, it turns out that there is a very
similar proceeding that is taking place before
Judge Chiodo, and the way that we are going to
proceed is the hearing that Judge Chiodo has
scheduled for Thursday is going to be canceled.

I think it would be fair to say that
we're, basically, suspending the litigation
schedule in both cases pending the issuance of
an order consolidating the cases, and that will
be a joint order and that, of course, will be
forthcoming.

My understanding is that,
Attorney Arnold, you have no objection to
consolidation?

MR. ARNOLD: Yes, I have no objection
to consolidating those two matters.

1 JUDGE BUCKLEY: And Attorney Leshner,
2 you have no objection?

3 MR. LESHNER: Your Honor, I have no
4 objection.

5 I did just want to mention there was
6 a briefing schedule that was issued by Judge
7 Chiodo in the other case, and I would assume
8 that that would be suspended, as well, pending
9 however the consolidation ends up working out?

10 JUDGE BUCKLEY: Well, again, that's
11 putting words in Judge Chiodo's mouth, but yes,
12 the consolidation would require the suspension
13 of the existing litigation schedule in both
14 cases.

15 Do you have any problem with that,
16 Judge Chiodo?

17 JUDGE CHIODO: No, absolutely not,
18 I'm glad you raised it. That would just make
19 sense, too, so yes, that will be suspended, as
20 well.

21 JUDGE BUCKLEY: All right.

22 MR. LESHNER: Thank you, both. No
23 objection.

24 JUDGE BUCKLEY: What we're going to
25 do is this, in a few minutes we will adjourn

1 here and the Judge and I will get busy on the
2 preparation of the order consolidating the cases
3 and addressing other issues. Obviously, any
4 question that either Counsel has with respect to
5 that order may certainly be raised, and it may
6 be necessary to have a third prehearing
7 conference before we actually get to an
8 evidentiary hearing on this, so with that, let
9 me just ask, Attorney Arnold, anything further
10 from you, sir?

11 MR. ARNOLD: Nothing further from
12 I&E.

13 JUDGE BUCKLEY: Attorney Leshner?

14 MR. LESHNER: Nothing further.

15 JUDGE BUCKLEY: All right. I want to
16 thank Officer Pacovsky and Mr. Ahmed for
17 attending today and for being ready to testify.
18 This could have gone a very different way, and I
19 do appreciate the fact that you took the time to
20 be here, whether required or not, but I do
21 appreciate that, as well, to our court reporter,
22 so if there's nothing further from either party?

23 MR. LESHNER: The only other thing
24 is, Your Honor, I would just request a copy of
25 the transcript.

R.R. 9

1 JUDGE BUCKLEY: Okay, very good.
2 Thank you for bringing that up.
3 Ms. Leverty, do you want to go ahead
4 and provide Counsel with your address and
5 contact information?
6 - - - -
7 (There was a discussion off the record.)
8 - - - -
9 JUDGE BUCKLEY: Anything further,
10 Attorney Arnold?
11 MR. ARNOLD: Nothing further,
12 Your Honor.
13 JUDGE BUCKLEY: Anything from you,
14 Attorney Leshner?
15 MR. LESHNER: No, Your Honor, thank
16 you.
17 JUDGE BUCKLEY: Thank you, and I
18 commend the attorneys for their professionalism
19 in this, and with that, we stand adjourned.
20 Thank you, all.
21 - - - -
22 (The proceedings were adjourned at 11:01 a.m.)
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REPORTER'S CERTIFICATE

I hereby certify, as the stenographic reporter,
that the foregoing proceedings were taken
stenographically by me, and thereafter reduced to
typewriting by me or under my direction; and that
this transcript is a true and accurate record to the
best of my ability.

Catherine C. Leverty

Catherine C. Leverty
Notary Public

Network Deposition Services
707 Grant Street, Suite 1101
Pittsburgh, Pennsylvania 15219

COMMONWEALTH OF PENNSYLVANIA
PUBLIC UTILITY COMMISSION

Bureau of Investigation |
and Enforcement, |

v. |
Good Cab, LLC |

Docket No.:
C-2022-3029079

Initial Call In |
Telephonic Hearing

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Judge's Chambers
Keystone Building
400 North Street
Harrisburg, PA

Monday, June 21, 2022
Commencing at 10:04 a.m.

BEFORE:

GAIL M. CHIODO, Administrative Law Judge

APPEARANCES:

ALPHONSO ARNOLD, III, Esquire
Pennsylvania Public Utility Commission
Office of Administrative Law Judge
400 North Street
Harrisburg, PA 17120
For the Complainant

CORY A. LESHNER, Esquire
Law Offices of Cory A. Leshner, LLC
415 Market Street
Suite 204
Harrisburg, PA 17101
For the Respondent

REPORTER: MARISSA MANTIA

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R.R. 12

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Travis Griffith					
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Maher Saber					
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Bureau of Investigation	
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Judge's Chambers
Keystone Building
400 North Street
Harrisburg, PA

Monday, June 21, 2022
Commencing at 10:04 a.m.

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Docket No. C-2022-3029079

Hearing Date: June 21, 2022

<u>NUMBER</u>	<u>FOR IDENTIFICATION</u>	<u>IN EVIDENCE</u>
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1 P R O C E E D I N G S

2 -----
3 JUDGE GAIL M. CHIODO: Good morning.

4 This is the time and place for the hearing in the
5 matter of Bureau of Investigations and Enforcement
6 versus Good Cab, LLC, which is docketed at
7 C-2022-3029079. My name is Gail Chiodo and I have
8 been assigned as the Administrative Law Judge to
9 preside over this hearing and render a Decision.
10 The parties are all participating by telephone this
11 morning.

12 Appearing before me today is Counsel
13 for the Bureau of Investigation and Enforcement, Mr.
14 Alphonso Arnold, III, as is Counsel for the
15 Respondent, Good Cab, LLC, Mr. Cory A. Leshner.

16 Okay. Let's see. There is, of
17 course, a court reporter present who will create the
18 official record of today's proceeding, so of course,
19 just the usual reminder for everyone to speak up and
20 one at a time, and as clearly as you can. And
21 certainly don't be shy about jumping in if you need
22 something to clarify for the record.

23 Okay. Prior to going on the record,
24 the parties have indicated that they were not able
25 to reach a resolution of this matter, so we will

1 proceed with the evidentiary hearing.

2 Okay. Mr. Arnold, are you ready to
3 proceed?

4 ATTORNEY ARNOLD: Yes, Your Honor.

5 JUDGE: Okay.

6 Then you may give an opening or just
7 go straight to call your first witness.

8 ATTORNEY ARNOLD: If I could make an
9 opening statement, I may - I will do so.

10 JUDGE: Sure. You certainly may. Go
11 ahead.

12 ATTORNEY ARNOLD: All right.

13 So generally, this matter was
14 initiated through a Complaint filed by the
15 Commission's Bureau of Investigation and Enforcement
16 against a call or demand carrier, a/k/a taxi
17 carrier, Good Cab, LLC, for violations of the
18 Commission's regulations found during an annual
19 inspection of the taxi carrier.

20 During this annual inspection
21 Commission enforcement officers arrived at Good
22 Cab's place of business and discovered that Good Cab
23 failed to maintain several Jira records, as required
24 by Commission regulations, in its files.
25 Particularly one regulation dictates that taxi

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1 drivers must maintain log sheets for every shift
2 that they operate. And in this matter, Good Cab
3 failed to retain those log sheets.

4 Another regulation requires that,
5 prior to a driver being hired as a tax driver, the
6 carrier must obtain - first obtain a criminal
7 background history and maintain that history in its
8 records, in its files. During this annual
9 inspection it was discovered that Good Cab did not
10 maintain or receive the criminal background history
11 of three of its drivers that it was employing.

12 And as a fifth violation, the
13 Commission's regulations also dictate that not only
14 must a carrier obtain an initial criminal history
15 background of its drivers prior to them being hired,
16 but it also provides that if a driver applicant has
17 been convicted of certain crimes during certain time
18 periods, that that driver is to be disqualified from
19 being hired as a driver.

20 And the enforcement officers during
21 this inspection ran a criminal background check on
22 one of the drivers, and it was discovered that that
23 driver should have been disqualified from being
24 hired as a taxi driver. And more will be elaborated
25 on that as I present my witness. But what we have

R.R. 17

1 here is five violations of the Commission's
2 regulations. And I have a witness who is an
3 enforcement officer who took part in this annual
4 inspection of the carrier, and he will be able to
5 testify as to the details of the inspection that
6 took place and the violations that were discovered
7 as a result of that inspection. And that concludes
8 my opening statement.

9 JUDGE: Okay. Thank you.

10 Mr. Leshner, you may make an opening
11 now or you may reserve it for your case, or you may
12 waive it. How would you like to proceed?

13 ATTORNEY LESHNER: If I could reserve
14 it until I present my case, I would like to do that.

15 JUDGE: Okay.

16 Fine. Thank you. Okay. Then Mr.
17 Arnold, you may call your first witness.

18 ATTORNEY ARNOLD: Thank you. I call
19 the first and only witness, Mr. Travis Griffith.

20 MR. GRIFFITH: Good morning.

21 JUDGE: Mr. Griffith, good morning.
22 Mr. Griffith, will you please raise your right hand
23 and I'll swear you in?

24 ---

25 TRAVIS GRIFFITH,

R.R. 18

1 CALLED AS A WITNESS IN THE FOLLOWING PROCEEDING, AND
2 HAVING FIRST BEEN DULY SWORN, TESTIFIED AND SAID AS
3 FOLLOWS:

4

5 JUDGE: And just for the record, would
6 you spell your name so that we make sure the court
7 reporter has it correctly?

8

9 THE WITNESS: Sure. Travis,
T-R-A-V-I-S. Last name Griffith, G-R-I-F-F-I-T-H.

10

JUDGE: Okay.

11

12 Thank you, Mr. Griffith. And Mr.
Arnold, you may proceed.

13

14

DIRECT EXAMINATION

15

16 BY ATTORNEY ARNOLD:

17

Q. All right.

18

Good morning, Mr. Griffith.

19

A. Good morning.

20

21 Q. Mr. Griffith, where are you currently
employed?

22

A. Pennsylvania Public Utility Commission.

23

24 Q. And what is your job title at the
Commission?

25

A. Public Utility Enforcement Officer in the

1 Motor Carrier Division.

2 Q. And is the Motor Carrier Division, is
3 that a part of the Bureau of Investigation and
4 Enforcement?

5 A. Yes, that's correct.

6 Q. And how long have you been working as an
7 enforcement officer?

8 A. Will be four years in August.

9 Q. And can you describe your credentials,
10 including your education and job experience?

11 A. Sure. I have an Associate's degree in
12 criminal justice. Prior to working for the
13 Commission I worked for the Lancaster County
14 Sheriff's Office as a Deputy for four years, and
15 about four years here with the Commission, enforcing
16 motor-carrier - carriers and passenger and property
17 regulations.

18 Q. An you touched on it a bit. Can you
19 elaborate more on your job duties as an enforcement
20 officer?

21 A. Sure. Enforce the regulations of
22 motor-carriers and property and passengers,
23 including call or demand or taxi-cab services.

24 Q. And as part of those job duties, do you
25 conduct inspections of taxi-cab companies to ensure

1 that they operate in a manner that is in compliance
2 with the Commission's regulations?

3 A. Yes, regularly.

4 Q. All right.

5 ---

6 (Whereupon, I&E Exhibit 1, Inspection Report, was
7 marked for identification.)

8 (Whereupon, I&E Exhibit 2, Officer Report, was
9 marked for identification.)

10 (Whereupon, I&E Exhibit 3, Vehicle/Driver Report,
11 was marked for identification.)

12 (Whereupon, I&E Exhibit 4, Court Summary, Brian
13 Hickman, was marked for identification.)

14 (Whereupon, I&E Exhibit 5, Criminal Docket, Brian
15 Hickman, was marked for identification.)

16 (Whereupon, I&E Exhibit 6, Criminal Docket, Brian
17 Hickman, was marked for identification.)

18 ---

19 ATTORNEY ARNOLD: So at this point in
20 time I want to turn everyone's attention to a
21 document that has been pre-marked as I&E Exhibit 1.
22 And Your Honor, I&E submitted proposed exhibits to
23 yourself and to Attorney Leshner per the
24 instructions on the Prehearing Order issued in this
25 matter. There are six proposed exhibits, all

1 pre-marked I&E Exhibits 1 through 6.

2 JUDGE: Thank you.

3 ATTORNEY ARNOLD: So starting with -.

4 JUDGE: I do have - I do have it.

5 BY ATTORNEY ARNOLD:

6 Q. So let's start with I&E Exhibit 1. Mr.
7 Griffith, do you have that in front of you?

8 A. Yes, I do.

9 Q. Okay.

10 And do you recognize this document?

11 A. Yes.

12 Q. Okay.

13 And what is this document?

14 A. It's multiple pages here, so I'll go
15 through it individually. The first page here is the
16 assignment page. This is what I receive when the
17 assignment comes up to do an annual inspection on a
18 carrier regulated by the Pennsylvania Public Utility
19 Commission.

20 So the first page shows the Respondent as
21 Good Cab, LLC. And then through the summary of
22 assignment, it just assigns me to complete an
23 inspection of the carrier's vehicles and driver
24 files to ensure compliance of PUC regulations.

25 Moving on to the second page, before we

1 do an inspection of the carrier's vehicles, I have
2 the carrier sign a form stating that the vehicles I
3 inspect are ready and available for use as call or
4 demand or taxi service so that I know they're ready
5 to be in service. So that when I inspect them I
6 know that they should be in compliance with the PUC
7 regulations. So I have them sign this before I
8 review their vehicles.

9 The next page has a list of vehicles that
10 are ready to be in service. This is what the
11 carrier signed off on that's ready to be in service.
12 It just has identifying factors, their year, make,
13 model and VIN numbers.

14 Moving on to the next several documents,
15 it's a copy of each Driver/Vehicle Inspection
16 Report. I'm going to go down to - okay. So the
17 fifth Inspection Report down, page ten. It's Report
18 Number 100621H41-4. The report number is found in
19 the upper right-hand corner. Four lines down -.

20 Q. I believe you're referring to page eight
21 of I&E Exhibit 1

22 A. I have it page ten. Oh, page eight.
23 You're correct. Correct.

24 Q. Yeah.

25 A. I thought it was page eight. Okay.

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1 So line four down has an operator's name,
2 Brian Hickman. Date of birth, 6/18/86. I want to
3 focus on this report because this is going to come
4 in testimony later.

5 Q. Okay.

6 The pages four through eight, these are
7 all Driver/Vehicle Compliance reports of the drivers
8 and vehicles in operation for Good Cab.

9 Correct?

10 A. That's correct. So each - each of these
11 drivers listed on these vehicle reports were
12 operating a vehicle for Good Cab, LLC. It looks
13 like one day prior to the inspection the driver
14 filed for the carrier. So the date listed on the
15 left-hand - upper left-hand corner, October 6th,
16 2021, is when these drivers were operating these
17 vehicles for the carrier, for Good Cab, LLC.

18 Q. And that final page, page eight, deals
19 with one Brian Hickman, who, as stated, was a driver
20 employed by Good Cab on the date of the inspection?

21 A. That's correct.

22 Q. All right.

23 And just in general, this inspection of
24 Good Cab, do you know what date it took place?

25 A. The vehicle inspections occurred on

1 October 6th, 2021, and the driver file inspections
2 occurred on October 17, '21. On October 5th, 2021,
3 myself and two other enforcement officers met the
4 representative of Good Cab, LLC, Maher Saber, at his
5 principal place of business to notify him of the
6 upcoming inspection, to have driver and vehicles
7 ready for inspection on the dates above.

8 Q. All right.

9 And I believe you covered everything that
10 I wanted to cover concerning I&E Exhibit 1. So at
11 this point in time I want to move along to - I
12 apologize for going out of order, but I just want to
13 move to I&E Exhibit 3.

14 A. Okay.

15 Q. So I&E Exhibit 3, do you have that in
16 front of you, Mr. Griffith?

17 A. Yes.

18 Q. And do you recognize this document?

19 A. Yes, I do.

20 Q. All right.

21 And can you describe I&E Exhibit 3?

22 A. Sure. This is just a summary report of
23 the annual inspection. This is something we kind of
24 do for status of each carrier due to the inspection.
25 So the amount of vehicles, we inspected seven

R.R. 25

1 vehicles. Total vehicles inspected for this report
2 were five.

3 There's a selection criteria we do if
4 there's more than five vehicles. We - we only
5 inspect a portion of the complete fleet. So we had
6 seven vehicles. We just let them take five vehicles
7 to submit for the inspection.

8 Same with the number of drivers. There
9 were nine drivers employed by Good Cab. We only
10 inspected five driver files.

11 Q. Okay.

12 And what you just indicated surrounding
13 the selection criteria, are you referencing that
14 table in the middle of this sheet?

15 A. No, that's a separate document. That
16 just tells the enforcement officer if there's five
17 total vehicles, we inspect five. If there's five -
18 or six to ten, then we only inspect five. If
19 there's 11 to 15, then we inspect 8. And then it
20 goes on after that. But in this case, there were no
21 more than ten vehicles or drivers, so we inspected
22 five vehicles and five drivers.

23 Q. And did you say that you took part in the
24 creation of I&E Exhibit 3?

25 A. I did.

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1 Q. Okay.

2 Is it part of your job duties to create
3 this report, I&E Exhibit 3?

4 A. Yes.

5 Q. Okay.

6 And what was the date that you made this
7 report?

8 A. On October 6th, 2021. This report is
9 specific to just the vehicle inspection, the vehicle
10 and the driver together. This is separate from the
11 driver file inspection, which we did on October 7,
12 2021. So the Summary Report is specific to the
13 vehicle inspection.

14 Q. All right.

15 So at this point I want to turn your
16 attention to I&E Exhibit 2. Mr. Griffith, do you
17 have I&E Exhibit 2 in front of you?

18 A. Yes.

19 Q. Do you recognize I&E Exhibit 2?

20 A. I do.

21 Q. And can you describe I&E Exhibit 2?

22 A. Sure. This is the officer's report, my
23 report of my findings after completion of the driver
24 file inspection on October 7th, 2021.

25 Q. So you - so did you create this report?

1 A. I did.

2 Q. And is creating an officer's report, is
3 that a part of your job duties when you conduct a
4 motor-carrier inspection?

5 A. Yes, it is.

6 Q. And when did you complete this report?

7 A. October 7th, 2021. The purpose of the
8 report is to report my findings and submit it to the
9 Commission so the Commission can decide if there
10 were violations present or not and whether to
11 enforce action.

12 Q. And we do see your name and date on the
13 upper left-hand side of this officer's report.

14 Correct?

15 A. Correct.

16 Q. All right.

17 Now, let's give some more detail
18 concerning this report. Well, first, let's get more
19 into this annual inspection of Good Cab. So
20 generally speaking, what does an annual inspection
21 of a motor-carrier entail?

22 ATTORNEY LESHNER: Your Honor, at this
23 point, as we're talking about the exhibits, would
24 you like me to place my objections on the record
25 now, or would you like me to wait until they're

1 moved to be admitted?

2 JUDGE: I would prefer until he's done
3 testifying to it or until he's done, unless you have
4 some objection to what he's testifying to.

5 ATTORNEY LESHNER: No, the testimony
6 is not my objection. It's just the exhibits
7 themselves. So it can wait. Just whatever your
8 preference was. I just wanted to make sure.

9 JUDGE: Okay.

10 Well, let's wait until the end then,
11 please, when he's done.

12 ATTORNEY LESHNER: Yes, Your Honor.

13 JUDGE: Thank you.

14 BY ATTORNEY ARNOLD:

15 Q. Okay.

16 The question was, what does an annual
17 inspection of a motor-carrier entail?

18 A. So we review the carrier's vehicles, do
19 an inspection of the vehicles, inside, outside, to
20 make sure they comply with PUC regulations and
21 Pennsylvania inspection regulations, to make sure
22 they're safe for service, in-service vehicles are
23 safe to complete call or demand services, and review
24 carrier's driver files to make sure their drivers
25 are qualified, to make sure that the carrier is

1 accountable for their drivers, that they review
2 their driver history prior to having them engage in
3 call or demand services, also review a criminal
4 history to make sure they're not disqualified by the
5 factors in 52 29.505, criminal history.

6 Q. Okay.

7 And the narrative on the officer's report
8 starts on October 5th, 2021. Can you tell us what
9 happened on that date?

10 A. Sure.

11 ATTORNEY LESHNER: Your Honor, I would
12 just object to the extent that he's going to read
13 the narrative. If he's going to testify as to his
14 recollection of what occurred, then I do not have an
15 objection.

16 JUDGE: Okay.

17 Well, I think that the witness, if he
18 recalls, he can testify to his recollection.

19 THE WITNESS: Sure.

20 JUDGE: Yes. Mr. Griffith, go ahead.

21 THE WITNESS: Sure. I state in the
22 report on October 5th me and two other enforcement
23 officers responded to the carrier's address to
24 inform Maher Saber that we were going to conduct the
25 vehicle inspection on March 6th and the driver files

1 inspection on March 7.

2 I did request a driver file on the day
3 of October 5th, 2021. And as I recollect, Mr. Saber
4 did not have any files available. He said he did
5 not have access to them. As the carrier official he
6 didn't have any access to the carrier's documents.

7 I also sent him an email that evening
8 with everything we talked about to say what should
9 be available for the inspection, vehicle inspection,
10 on October 6th and what should be available on the
11 inspection October 7th of the driver files. A link
12 to the motor-carrier regulations were also sent via
13 email.

14 BY ATTORNEY ARNOLD:

15 Q. I'll just say that the vehicle inspection
16 took place on October 6th. Were any violations
17 found with respect to the vehicle inspections?

18 A. There were no violations, no. And just
19 in Exhibit 1, the Driver/Vehicle Inspection Reports,
20 each of those reports indicate that there were no
21 violations found on any of the carrier's vehicles.

22 Q. And with respect to the driver file
23 inspection that took place on October 7th, 2021 -
24 well, first of all, you said that the carrier had no
25 files on record. What type of files with respect to

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1 the drivers was Good Cab required to have on file?

2 A. So I handed him a copy of the driver's
3 license, the initial motor-vehicle record or driver
4 history and the initial criminal history record
5 check.

6 Now, if the carrier was hired for more
7 than a year, they should have the initial driver
8 history, the initial criminal history and then the
9 first year driver history and the first year
10 criminal history. They're required to pull the
11 initial, the annual and then every year thereafter,
12 other year they should pull it to make sure that
13 driver is still qualified to drive based on their
14 driver history and criminal history.

15 Now, as I stated, Maher Saber was unable
16 to provide a driver list on October 5th, so many of
17 the drivers that he provided on October 7th did not
18 have a hire date or it was unknown. So I could not
19 prove that they needed a driver history or a
20 criminal history prior to that date because he
21 failed to report their hire date. So what I'm
22 looking for in their driver - driver file is, at
23 minimum, a driver's license to make sure that
24 they're 21, at least 21 years of age, driver
25 history, three-year driver history to make sure no

1 disqualifying factors in the driver history, and
2 their criminal history to make sure there's no
3 disqualifying factors in the criminal history to
4 operate as a call or demand driver.

5 Q. Okay.

6 And can you elaborate more on what you
7 discovered during the driver inspection on October
8 7th, 2021?

9 A. Sure. So as I testified to, I inspected
10 five driver files. Two were complete and then there
11 were three drivers that the carrier failed to have a
12 criminal history for, they had no criminal history
13 record checks for. And then there were three
14 drivers that did have - those three drivers did have
15 a driver history on file, just the initial one, but
16 they were all dated for that day. But because the
17 hire date was unknown, I had to accept it as their
18 initial driver history.

19 Q. And when you say that a driver is
20 required to have an initial criminal record on file
21 prior to hiring a driver, where do you find support
22 for that requirement?

23 A. Under Title 52, Chapter 29.505(b)(1)
24 states that they must obtain - conduct a local and
25 national criminal background check prior to

1 permitting a person to act as a call or demand
2 driver.

3 Q. And let's focus on a specific driver, the
4 driver Brian Hickman. Did you perform a criminal
5 background check on Mr. Brian Hickman?

6 A. Yes. So when a carrier fails to have a
7 criminal history on file, I'm required to check that
8 driver's criminal background to verify that they're
9 qualified, that they don't have any disqualifying
10 factors to operate as a call or demand driver.

11 So I did request a background check for
12 each individual driver that did not have a criminal
13 history on file. And Driver Brian Hickman, his
14 criminal history came back with records, two
15 specifically that disqualified him from operating as
16 a call or demand driver.

17 Q. And generally where do you find support
18 to say that Mr. Hickman should have been
19 disqualified to operate as a call or demand driver?

20 A. Sure. So under the same section, Title
21 52 29.505(b)(1), criminal background check, the
22 subsection's (i)(D), lists that an applicant
23 convicted of any of the following within the
24 preceding seven years shall be disqualified. And
25 that's a felony conviction for a violation of The

1 Controlled Substance Act, (iii), an applicant
2 convicted of any of the following at any time, a
3 crime of violence as defined in Title 18, Pa. 5702.
4 So it's found in Mr. Hickman's criminal history that
5 he had two convictions that prohibited him from
6 being a call or demand driver.

7 Q. Okay.

8 And lastly, so we talked about the
9 failure of Good Cab to have criminal records on
10 file. Did Good Cab maintain any log sheets in their
11 record?

12 A. They did not. So when I reviewed their
13 files, if I find violations like failure to obtain a
14 driver history or a criminal history, I will request
15 log sheets. The carriers are required - or the
16 drivers are required to have a log sheet for each
17 day that they make any trips for that carrier.
18 Maher Saber did not have any log sheets for any of
19 the drivers on file. They're required to retain
20 those logs for two years. He did not have any logs
21 for any drivers.

22 What we're looking for in bulk is to make
23 sure that that driver was actually driving for that
24 carrier. Typically, we see carriers are not holding
25 onto those log sheets if it doesn't put that driver

1 to that carrier. However, as indicated in Exhibit
2 1, with the Driver/Vehicle Inspection Report, Brian
3 Hickman was operating a taxi for Good Cab, LLC, on
4 October 6th.

5 Q. And where do you find your support
6 concerning a carrier's obligation to maintain log
7 sheets in their files?

8 A. Title 52 Chapter 29.313(c).

9 Q. Okay. All right.

10 At this point in time I want to turn
11 everyone's attention to I&E - what has been
12 pre-marked as I&E Exhibit 4.

13 ATTORNEY ARNOLD: So Your Honor, I&E
14 Exhibit 4, as well as I&E Exhibit 5 or 6 were
15 obtained through the Unified Judicial System of
16 Pennsylvania's web portal by performing a case
17 search. The web portal provides the public with
18 access to, you know, various aspects of court
19 information, including Common Pleas Court docket
20 sheets. So any member of the public would be
21 capable of obtaining the documentation that I
22 provided as I&E Exhibits 4 through 6. Specifically
23 I&E Exhibit 4 is a Court Summary from the First
24 Judicial District of Pennsylvania, which is the
25 court system of Philadelphia County. The summary

1 shows us that the driver that was discussed
2 previously, Mr. Brian Hickman, date of birth June
3 18th, 1986, was convicted on September 26th, 2006,
4 of robbery, which is a felony of the first degree.

5 It also shows us on December the 5th of
6 2017 that Mr. Hickman was convicted of attempting to
7 manufacture, deliver - manufacture, delivery or
8 possession with intent to manufacture or deliver a
9 controlled substance.

10 I&E Exhibit 5 is the criminal docket
11 sheet in regards to the robbery charge. And I&E
12 Exhibit 6 is the criminal docket sheet with respect
13 to the controlled substance conviction.

14 BY ATTORNEY ARNOLD:

15 Q. And Mr. Griffith, the criminal docket
16 sheet, Exhibit 5 and 6, Mr. Griffith, did you - you
17 stated you reviewed these criminal dockets?

18 A. I did. What I do is I access their
19 criminal history from the Pennsylvania State Police
20 Central Repository and confirm that they match
21 what's available to the public here, what's in front
22 of you on the Court Summary sheets.

23 So the first one, it said that the
24 conviction of the robbery is listed as a crime of
25 violence under Title - Pa. Title 18, 5702. That

1 disqualifies Mr. Hickman for life to be - to operate
2 as a call or demand driver.

3 The second one you stated, the conviction
4 of a felony of a controlled substance violation,
5 that was - the conviction was in 2017. That
6 prohibits Mr. Hickman from being a call or demand
7 driver for seven years.

8 Q. Okay.

9 So at this point in time I'm going to
10 conclude your testimony, Mr. Griffith, by asking you
11 about the Complaint. Mr. Griffith, did you review
12 the Complaint filed in this matter?

13 A. I did.

14 Q. And were you aware that I&E is seeking a
15 civil penalty in the amount of \$1,800?

16 A. I am.

17 Q. Are you aware that I&E is seeking a civil
18 penalty in the amount of \$750 for three violations
19 of Section 29.505(b)(1) for failure of the carrier
20 to retain initial criminal background history
21 surrounding three of its drivers?

22 A. Yes.

23 Q. And to your knowledge, did the civil
24 penalty you requested for \$250 for each violation of
25 that regulation, is that typically around the civil

1 penalty amount that's typically requested for that
2 type of violation?

3 ATTORNEY LESHNER: Objection.

4 THE WITNESS: I don't - I don't
5 request the penalty.

6 ATTORNEY LESHNER: My objection - I
7 mean, the typicality of a particular fine is not
8 relevant to the specific circumstances of this case.

9 JUDGE: Okay. I'm going to sustain
10 the objection. I mean, I think the Complaint speaks
11 for itself when he's asking for the violations. If
12 he - if you want to narrow it down, Mr. Arnold, to
13 what he's - he's been a PUC enforcement officer for
14 four years, if it's consistent with what he has
15 asked being involved in cases. Otherwise, I will
16 think it's a PUC question, if we get to the fine
17 point. So as asked, I'm going to sustain the
18 objection. And you may ask another questions or
19 proceed as you wish, Mr. Arnold.

20 ATTORNEY ARNOLD: All right. Thank
21 you.

22 All right. I don't have any further
23 questions for Mr. Griffith. He is available for
24 Cross Examination.

25 JUDGE: Thank you. Mr. Leshner, you

1 may Cross examine the witness.

2 ATTORNEY LESHNER: Thank you, Your
3 Honor.

4 ---

5 CROSS EXAMINATION

6 ---

7 BY ATTORNEY ARNOLD:

8 Q. Good morning, Mr. Griffith.

9 A. Good morning.

10 Q. I would like to initially call your
11 attention to what's been pre-marked as I&E Exhibit
12 1. And I'd like to begin at page number four of
13 eight. Do you have that document in front of you?

14 A. I do.

15 Q. Okay.

16 I believe you previously testified that
17 this was a vehicle inspection of one of the
18 carrier's vehicles.

19 Correct?

20 A. That's correct.

21 Q. And at the bottom of this form does it
22 indicate the officer that performed this inspection?

23 A. It does.

24 Q. And who is that officer?

25 A. Myself, Travis Griffith.

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1 Q. Okay.

2 I would like to turn now to the next
3 page, which is page five of eight of I&E Exhibit 1.
4 Is this an inspection of a different vehicle that is
5 owned by the carrier?

6 A. It is.

7 Q. And by which officer was this inspection
8 performed?

9 A. This is performed by Robert Maholik.

10 Q. Did you participate in the inspection of
11 this vehicle?

12 A. I did not.

13 Q. I'd now like to turn to page number six
14 of I&E Exhibit 1.

15 A. Okay.

16 Q. Is this particular compliance report
17 relevant to yet another vehicle of the carrier?

18 A. Yes, it is.

19 Q. And by whom was this inspection
20 performed?

21 A. Elliott Miller.

22 Q. Did you participate in this inspection at
23 all?

24 A. I did not.

25 Q. I'd now like to turn to page number seven

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1 of what's been pre-marked as I&E Exhibit 1. This is
2 the - an inspection of yet another vehicle that is
3 owned and operated by the carrier.

4 Correct?

5 A. That's correct.

6 Q. And by whom was this inspection
7 performed?

8 A. Officer Elliott Miller.

9 Q. And did you participate in this
10 inspection at all?

11 A. I did not.

12 Q. I'd now like to turn to page eight of I&E
13 Exhibit 1.

14 A. Okay.

15 Q. Is this an inspection report of yet
16 another vehicle owned and operated by the carrier?

17 A. Yes.

18 Q. And by whom was this inspection
19 performed?

20 A. Officer Timothy Troxell.

21 Q. And did you participate in this
22 inspection at all?

23 A. I did not.

24 Q. I'd like to turn next to I&E Exhibit
25 Number 3. This exhibit is one page.

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1 Correct?

2 A. That's correct.

3 Q. And at the bottom there it indicates that
4 the document is to be verified by someone. Do you
5 see that line, second line from the bottom?

6 A. Right.

7 Q. Is it signed?

8 A. So this document here is an
9 administrative form. It's just a summary
10 administratively for a summary of the inspection
11 report. This is -.

12 Q. Is it verified by anyone?

13 A. No.

14 Q. During your testimony you've indicated
15 that you presented to the carrier on October 5th,
16 2021, at his principal place of business.

17 Correct?

18 A. Yes, correct.

19 Q. And it was at that time that you notified
20 him that an annual inspection would be occurring the
21 next day.

22 Correct?

23 A. I explained to him that the vehicles -
24 vehicle - vehicle inspections were to be completed
25 the next day and that the driver file inspections

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1 were to be completed on Thursday, the 7th, October
2 7th.

3 Q. Okay.

4 And the next day, October 6th, 2021, the
5 carrier did provide you with the required number of
6 vehicles for you to inspect.

7 Correct?

8 A. That's correct.

9 Q. And on October 7th, 2021, the carrier
10 provided you with the required number of driver
11 files to inspect.

12 Correct?

13 A. Some of which were incomplete, but yes.

14 Q. But in terms of the total number that
15 were required to be provided, that information was
16 provided to you on the date that you requested it.

17 Yes?

18 A. That's correct.

19 Q. All right.

20 Do you have a copy of Pa. Code 52, 29.505
21 in front of you?

22 A. I do.

23 Q. All right.

24 During your Direct you discussed
25 paragraph (b)(1)(i) and (b)(1)(iii) or three. I'd

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1 like to call your attention to (b) (1) (ii).

2 A. Sure.

3 Q. And this provision disqualifies
4 individuals for a period of ten years.

5 Correct?

6 A. That's correct.

7 Q. And under (ii) (b), what are the offenses
8 that disqualify for a period of ten years?

9 A. Burglary or robbery.

10 Q. And I believe you testified that Mr.
11 Hickman's conviction was for robbery.

12 Correct?

13 A. Specifically, robbery - if I can refer to
14 the exhibit.

15 Q. Sure. I believe that's I&E Exhibit 4.

16 A. Okay.

17 Yes, robbery under Title 18,
18 3701(a) (1) (i), which is also defined as in Title 18,
19 Section 5702 as a crime of violence.

20 Q. All right.

21 And I'll refer back again to Section 505
22 that we were just discussing, (b) (1) (ii). Is there
23 anything in letter number B that defines the
24 different levels of robbery?

25 A. No, but crimes of violence does.

1 Q. And that's in another section.

2 Correct?

3 A. Right, under (iii).

4 Q. Got it. Okay.

5 But under (ii), robbery is just defined
6 as one offense, there's not sub-offenses.

7 Correct?

8 A. It's just an overall robbery conviction,
9 correct.

10 Q. All right.

11 And what was the date of Mr. Hickman's
12 robbery conviction? If I told you it was September
13 26th, 2006, would you dispute that?

14 A. That's correct. That sounds right.

15 Q. All right.

16 And if I can call your attention to I&E
17 Exhibit 4, right after the docket number is listed,
18 the disposition date is listed as September 26th,
19 2006.

20 A. Okay. Got it.

21 Q. All right.

22 I believe you indicated the date of your
23 inspection was October 7th, 2021.

24 Correct?

25 A. That's correct.

1 Q. And so more than ten years had passed
2 since Mr. Hickman's robbery conviction.

3 Correct?

4 A. That's correct.

5 Q. I believe you also testified in your
6 Direct that there were no vehicle violations found.

7 Correct?

8 A. That's correct.

9 Q. Now, you also testified that there were
10 no hire dates for the drivers.

11 Correct?

12 A. That's correct.

13 Q. And as to Latisha Walker, you testified
14 that the file did not have a criminal history check.

15 Correct?

16 A. That's correct.

17 Q. And we did have a criminal history
18 request.

19 Correct?

20

21 A. (WHEREUPON, A RESPONSE WAS GIVEN BUT WAS
22 STRICKEN FROM THE RECORD).

23 ATTORNEY LESHNER: Well, I would just
24 ask that the portion that's speculating the reason
25 for my client doing something be stricken. I don't

1 understand how this witness would know that.

2 JUDGE: Okay.

3 I will sustain that objection. We can
4 certainly stick to you requesting it on the 5th - I
5 mean the 6th, and he notified him that he would be
6 requesting that on the 5th.

7 ATTORNEY LESHNER: Right. Exactly. I
8 don't dispute the facts, Your Honor, of course.

9 JUDGE: All right.

10 So that's fine, yeah. I sustain your
11 objection as to any speculation as to why he
12 requested it -

13 ATTORNEY LESHNER: Thank you, Your
14 Honor.

15 JUDGE: - on that date.

16 BY ATTORNEY LESHNER:

17 Q. And do you have a date of hire for Ms.
18 Walker?

19 A. I do not recollect. I don't believe I
20 have any hire dates for any of the drivers, from the
21 driver list that Mr. Saber provided.

22 Q. And did you run a criminal history on Ms.
23 Walker?

24 A. I did.

25 Q. Did she have one?

1 A. I don't recollect if she had one. I do -
2 I do recollect that she didn't have anything
3 disqualifying her from operating as a taxi-cab
4 driver.

5 Q. And did you observe Ms. Walker operating
6 a vehicle on behalf of Good Cab?

7 A. I did not. All the driver files that I
8 reviewed were provided by Mr. Saber -

9 Q. Got it.

10 A. - records of Good Cab.

11 ATTORNEY LESHNER: That's all the
12 questions I have for the witness, Your Honor.

13 JUDGE: Okay.

14 Thank you, Mr. Leshner. Mr. Arnold,
15 do you have any questions, any Redirect?

16 ATTORNEY ARNOLD: Yes, I do, Your
17 Honor.

18 ---

19 REDIRECT EXAMINATION

20 ---

21 BY ATTORNEY ARNOLD:

22 Q. Mr. Griffith, I want to turn your
23 attention and everyone's attention back to I&E
24 Exhibit 1, particularly pages four through eight.
25 You stated that - on Cross that you did not take

1 part in the - in the - aside from Sam Wetzel, page
2 four, that you did not take part in the inspection
3 of the vehicle - of the other drivers, pages five
4 through eight.

5 Correct?

6 ATTORNEY LESHNER: Objection, leading.

7 ATTORNEY ARNOLD: Your Honor, Mr.

8 Leshner's asked several leading questions -.

9 JUDGE: I'm going to overrule it and
10 allow the question.

11 THE WITNESS: So each of the
12 inspection reports indicate that the inspection on
13 October 6th, I was present, but I was not involved
14 in each of the inspections, aside from the first
15 page there, where my name is indicated on the
16 report.

17 BY ATTORNEY ARNOLD:

18 Q. And again, to indicate, you did not find
19 any violations concerning any of the vehicles that
20 the drivers operated.

21 Correct?

22 A. That's correct. It doesn't look like any
23 of the officers found a violation - vehicle
24 violation.

25 Q. Okay.

1 I'd like to - your attention back to Mr.
2 Brian Hickman. And we can turn back to Exhibit 2,
3 page two. Was it your testimony that Mr. Hickman
4 was disqualified on two accounts?

5 A. Yes, as far as from the -.

6 Q. And was one involving a felony conviction
7 for a violation of The Controlled Substance, Drug,
8 Device & Cosmetic Act?

9 A. Yes, because he was convicted within the
10 past seven years.

11 Q. And let's dive more into the felony
12 conviction for the controlled substance violation.
13 And I'll reference -.

14 ATTORNEY LESHNER: Your Honor, I would
15 object. It's outside the scope of Cross.

16 JUDGE: Can you repeat the objection?

17 ATTORNEY LESHNER: During Cross
18 Examination I did not ask any questions about the
19 violation of The Controlled Substance Act. The
20 questions are now on Redirect, which need to be
21 maintained within the scope of the Cross
22 Examination. These questions go outside the scope
23 of the Cross Examination.

24 JUDGE: Okay.

25 I'm going to sustain the objection. I

1 mean, I think there was testimony on Direct about
2 the drug violation and he testified to the Crimes
3 Code - the number that he was charged with a
4 conviction.

5 BY ATTORNEY ARNOLD:

6 Q. Right. So we can focus on the robbery
7 conviction, which was addressed on Cross. Section
8 29.505, and this is (b)(1)(ii), Attorney Leshner
9 addressed this regulation. But there's also the
10 regulation at 25 - 29.505(b)(1)(iii), which states
11 that an applicant convicted of any -.

12 ATTORNEY LESHNER: Your Honor, I would
13 just object. If there's a question here for the
14 witness, maybe we can move forward with questions,
15 but Counsel's testifying.

16 ATTORNEY ARNOLD: I was getting into
17 the question.

18 JUDGE: I think he's trying to just
19 preface his question and lead us to it. So Mr.
20 Arnold, sure, okay, we understand what you're
21 pointing out, so sure, I believe you can ask the
22 question. So I'm going to overrule that objection.

23 BY ATTORNEY ARNOLD:

24 Q. So it is your testimony, Mr. Griffith,
25 that Mr. Hickman was disqualified as - or should

1 have been disqualified to operate as a call or
2 demand driver for his conviction of robbery under
3 29.505(b)(1)(iii)? Was that your testimony?

4 A. Yes, that's correct. So as Attorney
5 Leshner stated, under 29.505(1)(iii)(b), that just
6 covers robbery general, but there's different
7 subsections of robbery. So Mr. Hickman's criminal
8 history indicates that he was convicted of robbery,
9 subsection (a)(1)(i). So under 29.505(b)(1)(iii),
10 being a crime of violence as defined in 5702, a
11 crime of violence describes any conviction of
12 robbery under 3701(a)(1)(i), (ii) or (iii). So that
13 falls under a crime of violence. So that's why he's
14 disqualified for a lifetime as a call or demand
15 driver.

16 Q. So (iii) disqualifies drivers for a
17 conviction of a crime of violence permanently,
18 that's your testimony?

19 A. Yes. That's correct. It specifically
20 states an applicant convicted of any of the
21 following at any time.

22 Q. And in reference to Section 5702 of the
23 Crimes and Offense Code, are you familiar with that
24 regulation and they're defined as a crime of
25 violence.

1 Correct?

2 A. That's correct.

3 Q. And to turn everyone's attention to that
4 regulation - or that statute, rather, it's defined
5 as a crime of violence any of the following. And I
6 want to turn your attention to that statute, Mr.
7 Griffith, if you have that in front of you. Crime
8 of violence, (1), any of the following crimes, (ii),
9 do you find robbery anywhere in that subsection
10 there?

11 A. I do. So at the end of that paragraph,
12 about four lines up, robbery, as defined in Section
13 3701(a)(1)(i), (ii) or (iii).

14 Q. Now, I'll turn everyone's attention back
15 to I&E Exhibit 4. From your review of the criminal
16 docket, was Mr. Hickman convicted of robbery as
17 defined as under Section 3701(a)(1)?

18 A. Yes, (a)(1)(i).

19 Q. (A)(1)(i). And we can see that on page
20 one of Exhibit 4.

21 Correct?

22 A. That looks like the sentence date.
23 However, that's the conviction resulting in the
24 sentence - or the sentence resulting in the
25 conviction specified there of 18. 3701(a)(1)(i).

1 Q. And that states there on the criminal -
2 in the Court Summary that that's a felony of the
3 first degree, robbery, inflict serious bodily
4 injury.

5 Correct?

6 A. Yes.

7 Q. Okay.

8 And I want to turn your attention back to
9 I&E Exhibit 3.

10 A. Sure.

11 Q. And can you state again how this exhibit
12 - who created -

13 A. Sure.

14 Q. - this exhibit and how it came about?

15 A. I did. And this is for internal
16 purposes, just the summary of the vehicle inspection
17 specifically. It has nothing to do with the driver
18 - driver file inspections that we conducted on
19 October 7th.

20 This report was drawn up on October 6th,
21 after the vehicle inspections were conducted on
22 October 6th, 2021, and it just outlines how many
23 vehicles were to be inspected and - or how many
24 vehicles the carrier has and how many were
25 inspected, if there were any violations, any out of

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1 service violations, et cetera. And there weren't,
2 as indicated in the Driver/Vehicle Inspection
3 Reports.

4 Q. And when you say it was made for internal
5 purposes, what do you mean by that? Was it - was
6 this report submitted to your supervisor or to be
7 used amongst other officers?

8 A. It's, more or less, just a summary
9 supplemental to my narrative report.

10 ATTORNEY ARNOLD: Okay.

11 Your Honor, I have no further
12 questions on Redirect.

13 JUDGE: Okay.

14 Thank you, Mr. Arnold. Mr. Leshner,
15 as a result of that questioning, do you have any
16 Recross for this witness?

17 ATTORNEY LESHNER: No, Your Honor.

18 JUDGE: Okay. Okay.

19 Then, Mr. Arnold, back over to you.
20 Are you through with this witness? And I believe
21 you said you have no further witnesses?

22 ATTORNEY ARNOLD: Yes. I have no
23 further - no further questions for this witness.
24 And this is my only witness. I have no further
25 witnesses to present. So at this time I would then

1 move for the admission of I&E Exhibits 1 through 6
2 into the record as evidence in this matter.

3 JUDGE: Okay.

4 Mr. Leshner, let's take the exhibits
5 one at a time since you may have some objections.
6 Do you have any objection to admitting I&E Exhibit
7 Number 1?

8 ATTORNEY LESHNER: I do, Your Honor.
9 As far as I&E Exhibit 1 is concerned, specifically
10 pages six through eight, the reports that Officer -
11 I'm sorry, five through eight, the reports that
12 Officer Griffith did not participate in, are not
13 signed by him, are hearsay, and should not be
14 admitted.

15 JUDGE: Okay.

16 I'm going to overrule that objection
17 and admit I&E Exhibit Number 1.

18 ---

19 (Whereupon, I&E Exhibit 1, Inspection Report, was
20 admitted.)

21 ---

22 JUDGE: Let's go to I&E Exhibit Number
23 2. Do you have any objection, Mr. Leshner?

24 ATTORNEY LESHNER: I do. This is a -
25 essentially a law enforcement officer's report,

1 (Whereupon, I&E Exhibit 4, Court Summary, Brian
2 Hickman, was admitted.)

3 (Whereupon, I&E Exhibit 5, Criminal Docket, Brian
4 Hickman, was admitted.)

5 (Whereupon, I&E Exhibit 6, Criminal Docket, Brian
6 Hickman, was admitted.)

7 ---

8 JUDGE: And I - just to summarize, I&E
9 Exhibit Numbers 1 through 3 will be admitted -.

10 ---

11 (WHEREUPON, THERE WAS AN INTERRUPTION IN THE
12 PROCEEDINGS.)

13 ---

14 JUDGE: So Mr. Leshner, you may
15 proceed with your case.

16 ATTORNEY LESHNER: Okay.

17 And I reserved my opening. If I can
18 do that now very briefly?

19 JUDGE: Sure. Go ahead.

20 ATTORNEY LESHNER: Thank you.

21 Specifically, we're here today for
22 three violations in terms of - if we categorically
23 define the violations, there's three drivers that
24 fall under the first violation, which is the failure
25 to obtain a criminal history prior to operation.

1 The second violation is under the same section,
2 29.505(b)(1), and it relates to disqualification as
3 a call or demand driver.

4 Your Honor, it is our argument that
5 this particular section and this particular
6 categorical prohibition for a taxi driver to operate
7 a vehicle based upon a criminal conviction is
8 judicially unconstitutional pursuant to several
9 previous Commonwealth Court, Superior Court and
10 Supreme Court cases that have resulted over the
11 years.

12 Section 29.505 was enacted by the
13 Public Utility Commission as a temporary regulation
14 during a substantial overhaul of regulations in
15 response to the admission of transportation network
16 carriers. This particular section was enacted as a
17 transportation network carrier regulation and was
18 adopted by the Pennsylvania Public Utility
19 Commission to apply to call or demand carriers as
20 well. Final regulations have never been approved.
21 This temporary regulation remains in place to this
22 date. However, the categorical and irrebuttable
23 presumption that it creates, that drivers are
24 disqualified from driving because of their
25 convictions, violates the - Pennsylvania's

1 Constitution.

2 Additionally, we have a significant
3 internal inconsistency within the statute itself.
4 Section (b)(1)(i) specifically states that robbery
5 disqualifies a driver for a period of ten years.
6 Section 505(b)(1)(iii) states that a crime of
7 violence disqualifies a driver for a lifetime.

8 Ultimately, this internal
9 inconsistency allows for an unequal application of
10 the statute by the enforcement officers, which is
11 exactly what's occurring here. The individual was
12 convicted of a crime of robbery. The statute
13 specifically excludes him for a period of ten years.
14 However, utilizing another section in the statute,
15 the officer is applying a lifetime ban to this
16 particular individual.

17 So it is the carrier's position that
18 the carrier should have discretion in its hiring.
19 It should be able to look at criminal histories and
20 look at it as one particular factor in determining
21 whether or not to hire an individual. And the
22 categorical rejection of that individual because of
23 a criminal history, as contained within the Public
24 Utility Commission's regulation, is
25 unconstitutional.

1 At this time, I would like to call my
2 witness, Maher Saber.

3 JUDGE: Okay.

4 Thank you. Mr. Saber, good morning,
5 sir. I'm going to ask you to raise your right hand
6 and I'm going to swear you in.

7 ---

8 MAHER SABER,
9 CALLED AS A WITNESS IN THE FOLLOWING PROCEEDING, AND
10 HAVING FIRST BEEN DULY SWORN, TESTIFIED AND SAID AS
11 FOLLOWS:

12 ---

13 JUDGE: Thank you. Mr. Leshner, you
14 may begin.

15 ---

16 DIRECT EXAMINATION

17 ---

18 BY ATTORNEY LESHNER:

19 Q. All right.

20 Mr. Saber, could you please state your
21 name and spell your last name for the record?

22 A. My name is Maher, M-A-H-E-R, Saber, S, A
23 as in apple, B as in boy, E-R.

24 Q. And what is your current employment?

25 A. I'm the owner and operating manager for

1 Good Cab, LLC.

2 Q. And how long have you been in the
3 taxi-cab industry?

4 A. I have been in the taxi-cab industry for
5 about 20 years.

6 Q. And what aspects of Good Cab, LLC's
7 business do you participate in?

8 A. I do participate in all aspects of the
9 cab business from hiring, from reviewing the driver
10 record, from interviewing the drivers, from training
11 the drivers, from making sure the driver is doing
12 the right thing. Because as far as I'm concerned, I
13 need the driver to be a safe driver. I need the car
14 to be safe on the road. And as Mr. Griffith
15 indicated, with no safety violation for my cars.
16 Safety is very important and crucial for our
17 operation for 20 years. We have no violation.

18 And at the same time, I do want to be -
19 keep good drivers because that's how I make - how I
20 make a living, by having a good driver. Having a
21 bad driver, irresponsible drivers, is going to
22 destroy the business. However, we have been, Your
23 Honor, in this business for 20 years.

24 I would like to mention also that so many
25 cab companies, they're out of the business after the

1 Corona, during the Corona, so many out of the
2 business. And Your Honor, we're trying to stay
3 alive. We tried to stay alive in very competitive
4 business. And with the price of gas - I'm the only
5 one around, but with the price of the gas, Your
6 Honor, it's very hard to find a mechanic. It's very
7 hard even to find the drivers. Nobody wants to
8 work.

9 Many cab companies has been closed, and
10 I'm very sure you have the statistics. We tried to
11 stay afloat. And we're looking for the Public
12 Utility Commission, Your Honor, somebody to help us
13 in business, somebody to be a guidance for us, not
14 somebody to come in and ??? (1:19:07), not even try
15 to help us out.

16 So anyway, my background is I have a
17 Bachelor degree in economics and political science
18 from Towson State University, T-O-W-S-O-N, Towson
19 State University in Baltimore, Maryland, in the
20 State of Maryland, economic, political science. I
21 attended my Master's degree at the University of
22 Baltimore, in the State of Maryland as well. So we
23 try to find good individuals to work, try to give
24 people a chance to work.

25 Q. Okay.

1 I would like to ask some specific
2 questions about your process in hiring drivers.
3 Could you please explain to the Court how a driver
4 would go about applying for a position with Good
5 Cab, LLC?

6 A. First, Your Honor, we obtain the driving
7 record for the drivers and also the criminal record
8 for the drivers. We interview the drivers. If the
9 driver has a criminal record, we would like to know
10 how long ago. We would like to know if the driver
11 had any kind of probation. We would like to know if
12 the driver - how long ago if the driver has been
13 doing the right thing for years. We can tell the
14 difference. We also will check if a driver has been
15 - work in different jobs. We call and will check
16 around. Even I ask if the driver have a car just to
17 give us a chance of responsibility that the driver
18 can have a car and drive his own personal car, can
19 provide insurance for his car, and we check the
20 history. Does he have accidents? If he doesn't -
21 even the insurance companies sometimes qualify the
22 driver or may disqualify. I may decide, you know
23 what, Your Honor, he's not qualified because he's
24 going to be a risk. He's not going to do the right
25 thing.

1 Even if the driver has zero criminal
2 record doesn't mean he's fit to drive because we
3 have interest, Your Honor. I have interest in - our
4 interest is to keep the driver safe on the road. We
5 do not want to have a driver unsafe, have a problem
6 with the customers or have a driver driving the car
7 and causing accidents. So we have a big stake.
8 We're trying to - whichever car would work, even
9 somebody have an imperfect driver record and is not
10 a safe driver, not customer service oriented, we may
11 disqualify. I may disqualify him from driving the
12 cab.

13 Also, we put the driver through a very
14 intensive training where he drive with another
15 driver where we introduce him to the regulations,
16 where we ensure he's doing the right thing. So we
17 also have a weekly meeting for the driver after the
18 driver is hired to ensure that the driver are aware
19 of safety and other things.

20 Q. You said you do an interview of each
21 individual driver that applies.

22 Right?

23 A. Yes.

24 Q. And during that interview, what are some
25 of the questions that you ask?

1 A. Does the driver have a criminal record,
2 which we already know. We have a copy of the
3 criminal record, but we ask him. We would like what
4 he's telling us to match what we already have. If
5 he's lying, he's out.

6 People - I believe people deserve a
7 second chance. I believe in if the person come in,
8 telling the truth, admitting serving his time, he's
9 being in good faith, trying to change his life,
10 trying to support his family and for some time, for
11 a long time, could be years, doing the right thing,
12 keeping jobs, keeping with - sometimes even I check
13 with the probation officer if the driver is still in
14 probation. I ask him how this individual is doing.
15 And if he tells me he's not doing the right thing,
16 he's a problem, he's out.

17 So it's not really common to take the car
18 and run. We have a stake here, Your Honor, making
19 sure the driver is doing the right thing. So it's
20 really, Your Honor, a case-by-case basis for
21 individual particular circumstances. So we try and
22 make sure that the drivers - or the prospective
23 driver is doing the right thing. He's honest. He's
24 admitting what he has done - what has happened, and
25 he fits as somebody driving the car and serving the

1 public in a good way.

2 Q. Now, after this interview, do you
3 sometimes determine that a driver is not qualified
4 to drive a taxi-cab?

5 A. Yes, absolutely. I mean, the driver can
6 have a perfect driving record, a perfect - a perfect
7 criminal history, but we decide the driver is not
8 going to drive the cab because he doesn't fit as a
9 cab driver, Your Honor. Cab drivers have to have
10 certain requirement to be customer oriented, to be
11 patient, an attachment, Your Honor, with the
12 customers. Because it's not just about driving a
13 car. It's about - it's about - how can I say this,
14 Your Honor? Some customers are really - how can I
15 say it - a pain in the neck in the car. So I want
16 to make sure my driver maintains patient, maintain a
17 good customer service, be there for the customers.
18 And that's what we do.

19 And some people, we - at the end of the
20 interview we decide they are not going to drive.
21 Even after the training, Your Honor, even after we
22 hire, I may decide those drivers are not going to
23 drive even after hiring them. I decide, you know
24 what, because they are not doing the right thing.
25 They are not patient and - they are not safe.

1 Q. And ultimately, as far as Good Cab, LLC,
2 is concerned, who makes the decision as to whether
3 or not a particular driver is hired or not?

4 A. Myself, Your Honor. Yes, it's me.

5 Q. Okay.

6 Mr. Saber, I would like to call your
7 attention to an interaction that occurred between
8 yourself and Officer Griffith on October 5th, 2021.
9 Do you recall this interaction?

10 A. Yes.

11 Q. To your recollection, could you please
12 explain to the Court, as you recollect, what
13 occurred during this interaction?

14 A. Yes. Your Honor, as I mentioned before,
15 as a small business, a taxi business, Your Honor,
16 it's very involved and it's very hard and tough
17 business, Your Honor. We have an in shop, Your
18 Honor, we have to struggle finding mechanics to fix
19 the car. And as Mr. Griffith mentioned, we have no
20 safety violation, Your Honor. Safety, safety,
21 safety.. Okay? So trying to find this in very
22 competitive market, Your Honor, we're trying to find
23 good mechanic to keep the car safe. We try to find
24 individuals to work in the office to work with
25 paperwork, making sure everything's in order. We're

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1 trying to work with the PUC. We're trying to work
2 with the drivers. We're trying to work inspections.
3 It's a very, very involved business.

4 So - and when Mr. Griffith came, Your
5 Honor, he has two other PUC officers with him. He
6 called me on the phone. I said, I'm not in the
7 office, Mr. Griffith, right now. Can we meet
8 tomorrow or something? He said, no, I need you
9 right now. I said, what happened? He said, just I
10 need you. I said, okay.

11 I came to the office, Your Honor, and he
12 said I need a copy of your drivers. I said - I
13 said, again, Mr. Tim, what's happening. I mean,
14 just the person who's working in the office - we
15 converted to Apple - to Apple system, Macintosh
16 system, and I'm a Microsoft guy. I have been away
17 from technology. I have been away for a long time,
18 and I'm not familiar even with Apple. I cannot even
19 ??? (1:27:40.2) for you.

20 And for a while I would have you meet
21 somebody within the office. If you give me the
22 total - if you will give me the total, the next day
23 I'll give her the list of everything you want. I
24 have it, but I cannot do it right now. Just give me
25 24 hours. He insisted, Your Honor, it has to be

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1 right now, with the other officers. At that time I
2 really - I don't even know how to use Macintosh.
3 I'm hardly open it - opening the machines. And this
4 is the truth. And for a long time I have nobody. I
5 was going to ask somebody to come and help, you
6 know, with the file, Your Honor. It's not really -
7 I'm a big company, I'm an Apple company or a big
8 trucking company, I have a lot of resources to do
9 that. And I provided everything right the next day
10 for them.

11 So I was very upset, Your Honor, this day
12 because I had been dealing with the PUC for more
13 than 20 years, Your Honor. And for somebody to come
14 in and say I need it, I need it right now, I need
15 the records right now, I said give me a couple
16 hours, said no. Give me the drivers. No I decided
17 to listen. Please, everything will be ready
18 tomorrow. And if you don't want to do it, just - I
19 cannot get it for you right now. I'm really - I'm
20 one of the few businesses, Your Honor, and I didn't
21 - you know, I gave him the paperwork the next day.

22 Q. And at the time that Officer Griffith
23 came to your office on October 5th, 2021, did you
24 have a driver file in the office?

25 A. Yes, I do.

1 Q. And at that - on that date and at that
2 same time did you have a vehicle list in the office?

3 A. Yes, I do. Yes.

4 Q. And did you ultimately produce the driver
5 and vehicle list to Officer Griffith on the
6 following day?

7 A. Yes, I did.

8 ATTORNEY LESHNER: Your Honor, that's
9 all the questions I have for this witness.

10 JUDGE: Okay.

11 Thank you. Mr. Arnold, you may
12 proceed if you have any Cross.

13 ATTORNEY ARNOLD: All right. Thank
14 you.

15 ---

16 CROSS EXAMINATION

17 ---

18 BY ATTORNEY ARNOLD:

19 Q. Sir, can you pronounce your last name
20 again for me, please? Mr. Saber?

21 A. S-A-B-E-R. Yes. You can call me - I go
22 by Mark. They call me Mark.

23 Q. Okay.

24 Martin, do you see -?

25 A. Mark.

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1 Q. Mark, do you have any set criteria in
2 regards to what makes you determine if a driver is
3 hireable or not hireable?

4 A. Absolutely. I mean, as I said, it's a
5 case-by-case basis for individual particular
6 circumstances. I mean, I want to make sure the
7 driver is safe. I want to make sure the driver has
8 a valid driver's license. I'm making sure the
9 driver like, you know, 24 years old, is not even 21.
10 I want to make sure he's at least 24. I want to
11 make sure he's safe. I want to make sure he doesn't
12 have a bad driving record. I want to make sure the
13 driver fit as a driver.

14 Q. Okay.

15 So a case-by-case basis. Are you
16 familiar with the Commission's regulations at
17 Chapter 29?

18 A. Yes, I am.

19 Q. Specifically, are you familiar with
20 Section 29.505 concerning - of the regulations
21 concerning criminal histories required by the
22 drivers?

23 A. Yes. It's got really confusing, this
24 part, because a lot of people, they maybe do certain
25 crimes. Really, I don't let them drive. I don't

1 let some people to drive, but I look at - I look at
2 it on an individual basis. And if somebody have a
3 crime 20 years ago and this person has been doing
4 the right thing, even if somebody have a DUI 20
5 years ago, when they were 18 or 20, and they changed
6 their lives, they have been in jobs, maintaining
7 good driving record, I will give them a second
8 chance, because as I said before, I want to have
9 good drivers. I do not want to have accidents and
10 my insurance rate goes high. So as I said, it
11 depends on the interview. I may hire somebody with
12 a perfect driving record and criminal record, and I
13 may fire them after a week or two because I watch
14 the drivers.

15 Q. Is it possible that you may hire someone
16 who might otherwise be disqualified per the
17 Commission's regulations?

18 A. What do you mean? I don't understand.

19 Q. The Commission's regulations at 29.505
20 provides a list of crimes that would disqualify a
21 driver from being hired. You just stated that you
22 hire people on a case-by-case basis. So my question
23 to you is, do you consult or check with the
24 Commission's regulations when determining whether or
25 not to disqualify a driver?

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1 A. Yes.

2 Q. and you stated that you can disqualify a
3 driver if you feel that the driver would be unsafe.
4 How do you - what's your criteria in determining
5 whether or not a driver would be a safe driver or
6 not?

7 A. I mean, there's two parts to answer your
8 question, Mr. Alphonso. The first part, during the
9 interview if I see a consistent safety violation
10 like red light violation or stop sign violation or a
11 speeding violation, if somebody has one say five
12 years ago and since then nothing happened, you know,
13 I may give him a chance. The person comes and say,
14 listen, this won't happen and it won't happen again
15 and these are the circumstances, I may give the
16 person a chance. We may hire them. But - so even
17 after hiring, because I have a meeting, I have - I
18 have - during the meeting, if I listen to the
19 customer complain, I have - my phone is open for the
20 customer. If a customer is telling me your driver
21 is speeding, I talk to the driver. I find out
22 what's happening. But if something keeps happening,
23 the driver is speeding or something happens, I may
24 let the driver go.

25 And also we have other drivers on the

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1 road. If they see these driver - if he's driving
2 funny or something, so - I take him off the road.
3 So even beside the driving record, the criminal
4 record, again, the person could have a perfect
5 driving record but doesn't ??? (1:36:20) we hire
6 him, but after hiring we let him go because he's not
7 safe on the road. I drive around and I check the
8 cars, I check the drivers. I drive around the city.
9 And as I said, so many cab companies are already out
10 of business. In central Pennsylvania I am one of
11 the few left in central Pennsylvania to serve the
12 public and hospitals and all this.

13 Q. And how many years did you say that you
14 have been dealing with the Commission?

15 A. About 20 years. And also, I am the
16 president of Greater Pennsylvania Taxi-Cab
17 Association, and I was involved with some of the
18 previous Commissioner in changing some regulations
19 in reference to the cab industry. I was one of the
20 advise - I'm not going to say advisor. I did sit
21 down and talk with the Vice-Chairman and other
22 commissioners to change some of the regulations
23 which we agreed on didn't make any sense for the
24 public and for the industry as well.

25 Q. And in addition to Good Cab, how many -

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1 how many motor-carrier companies do you own under -
2 in this Commonwealth?

3 A. Yeah, I have - I have different cab
4 companies, some of them in different counties. Some
5 of them in the same counties.

6 Q. Okay.

7 Do you know the number in terms of how
8 many companies you own?

9 A. We have companies, different cab
10 companies such as, you know, Easy Taxi, Easton Cab,
11 you know, Good Cab.

12 Q. And these companies that you own, you
13 obviously have a Certificate of Public Convenience
14 from the commission in order to operate it.

15 Right?

16 A. Yes, sir. Yes, sir. We go through the
17 whole process different with the LLC. The different
18 counties and the same counties. We do - I do
19 understand from the business point of view we
20 service different customers in different areas and
21 the counties and the city. They have different
22 needs, and that's - we try to accommodate the
23 service for the customers and make sure we have the
24 market for different areas in the county, again, and
25 different customers as well.

1 Q. And as a holder of multiple Certificates
2 of public Convenience from the Commission, you have
3 familiarized yourself with the Commission
4 regulations concerning motor-carriers?

5 ATTORNEY LESHNER: And I would just
6 object as asked and answered.

7 JUDGE: Okay.
8 The basis of objection?

9 ATTORNEY LESHNER: This question has
10 been asked three different ways now. He's answered
11 yes all three times. This is now the fourth time
12 it's been asked.

13 JUDGE: Okay.

14 Well, I think it has been asked and
15 answered. And Mr. Arnold, why don't we focus on the
16 convictions that are in this case?

17 BY ATTORNEY ARNOLD:

18 Q. All right.

19 Mr. Maher, concerning Good Cab, when
20 asked to provide - from the enforcement officers who
21 performed this inspection, when asked to provide
22 files of your drivers, which - what type of file did
23 you provide to the enforcement officers?

24 A. He asked for the driver file of the cars.
25 And I said, listen, I don't have somebody in the

1 office. And as I explained to the Judge, I didn't
2 have anybody helping me even printing those files
3 because it's Apple now. We converted to Apple, and
4 I don't have anybody right now. I didn't have
5 anybody to help me in the office, Mr. Alphonso, for
6 a long time. I couldn't find anybody. And now
7 actually I was trying to ask somebody to come and
8 print it for him, but admittedly I said, come
9 tomorrow and I will do it for you. I will have
10 somebody print it for you because I'm not even
11 familiar. I'm a highly educated guy, as I said
12 before, but I'm away from the technology. I'm away
13 from all of this for about 20 years. I'm in the cab
14 business. I'm on the ground. Have to deal with
15 drivers, with mechanics. I have to deal with
16 accidents. I have to deal with customer complaints.
17 I have to deal with the PUC. I have to deal with a
18 lot - I'm one person. And as everybody knows, in
19 this competitive market, I cannot find - it's really
20 hard to find individuals to come and do the work and
21 stay. People come for a week and go. Just even as
22 to drivers. Some drivers, they may come for a week
23 and leave, you know. So you go through the cycle.

24 Q. Did you eventually provide the files that
25 you had to the enforcement officers?

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1 A. Yes. As Mr. - as Mr. Griffith say, yeah,
2 the next day he got it.

3 Q. And did you provide any files to the
4 enforcement officers concerning a Brian Hickman?

5 A. What is the question?

6 Q. Did you provide any files of the driver
7 by the name of Brian Hickman to the enforcement
8 officers during this inspection?

9 A. Yeah. I believe he got the driver's
10 license. He got some other - some other document.
11 Also, the driver was just hired. I mean, as I said
12 before, Your Honor, sometimes drivers come and go.
13 Some of them, they come, they may work for a day or
14 a week and they go. And at the same time - you
15 know, I did provide him with some document, yes.

16 Q. Did you perform a criminal background
17 check on Mr. Hickman prior to his hire?

18 A. I believe what we did - I asked him to
19 provide me with the criminal record, and he applied
20 for it. But sometimes it may take a couple months
21 to do that. So I have him request a criminal
22 record. He was working at a different cab company
23 before, and he just started working with us, so I
24 asked him to get - to apply for the criminal record
25 with the State Police. And sometimes it takes

1 longer time or shorter time, but I believe we have a
2 receipt of him applying for his criminal record.

3 Q. So you asked him to provide the criminal
4 records. You did not seek the criminal records on
5 your own?

6 A. We - actually, we do both. We ask the
7 driver to go to the State Police or get it, and at
8 the same time we apply for one in the office. We
9 want to ensure everything matched, because as I said
10 before, I ask the driver for his criminal record
11 and, Your Honor, try to match what he's telling me
12 with what I have.

13 So the nature of the cab business is
14 drivers come and - drivers, they do come and go. I
15 mean, some people, they may come for a day and they
16 go. Some people, they may stay for a week, then
17 they go, you know. It's very hard to maintain good
18 drivers and keep people, period, at this time.

19 Q. Are you aware that Section 29.505 of the
20 Commission Regulations requires the carrier to
21 conduct the criminal background check?

22 A. Yes. That's what we do.

23 Q. You stated that you ask the driver
24 himself to provide the criminal background check?

25 ATTORNEY LESHNER: Objection. He's

1 miscategorizing the testimony of this witness. The
2 witness testified that he does both.

3 JUDGE: well, I think he's asking -
4 it's my understanding of the question he's asking
5 specifically about Mr. Hickman. I think Mr. Saber's
6 testimony was generally before how he does it. I
7 think we can focus on Mr. Hickman. Did he request -
8 did he do his own initial criminal history on Mr.
9 Hickman? I believe that's the question. Is that
10 correct, Mr. Arnold?

11 ATTORNEY ARNOLD: That is the
12 question.

13 THE WITNESS: Yes, Your Honor. I did
14 it as well. I did it myself and also I did ask him
15 to get it from the State Police. Yes, both.

16 BY ATTORNEY ARNOLD:

17 Q. So to summarize, was Mr. Hickman hired
18 prior to you viewing his criminal background check?
19 Or to phrase it another way, was Mr. Hickman hired
20 prior to you obtaining the criminal background check
21 on Mr. Hickman?

22 A. I did - I did the criminal background and
23 got a receipt for his information, and he was just
24 started at this time.

25 ATTORNEY ARNOLD: I'm not too clear on

1 that answer. I'll ask the question again because I
2 wasn't too clear on the response from Mr. Maher.

3 BY ATTORNEY ARNOLD:

4 Q. So the question was did you hire Mr.
5 Hickman prior to obtaining and reviewing his
6 criminal background history?

7 A. I did talk to him about his background
8 while I applied for his criminal - while I was
9 requesting his criminal record.

10 JUDGE: Okay.

11 I'm going to interrupt here. Mr.
12 Saber, I think the question's been asked twice now
13 by Mr. Arnold, and you're not answering it. He's
14 asking if you obtained it and reviewed it, not if
15 you requested it, not everything you did. But it's
16 been asked twice now, and if you could answer the
17 question. Did you obtain and review Mr. Hickman's
18 criminal history before hire?

19 THE WITNESS: No.

20 JUDGE: Thank you. Mr. Arnold, you
21 can proceed.

22 ATTORNEY ARNOLD: Okay.

23 BY ATTORNEY ARNOLD:

24 Q. On what dates - on what type of criteria
25 did you use when you hired - sorry. Let me rephrase

1 this question. When you decided to hire Mr. Hickman
2 as a driver for Good Cab, how did you come to hire
3 him? What type of criteria did you use in hiring
4 Mr. Hickman?

5 A. Yeah, he has, you know, a decent driving
6 record. He has - he doesn't have any crime for
7 seven years. He's family oriented. He has kids.
8 He lives in the - he lives in the City of Harrisburg
9 for a while. There's no crime for at least, I
10 believe, about six years or so and no violation of
11 his probation. This is the main criteria that I
12 hire him for, so - and he does follow direction, he
13 knows what he's doing, and he's a safe driver. And
14 he's very good with customers as well. He has a
15 good customer service skills.

16 Q. What do you mean by safe? How do you
17 conclude that Mr. Hickman was a safe driver?

18 A. By looking at his driving record.

19 Q. And how did you conclude that he has not
20 committed any crime? I'm not - I don't recall any -
21 the amount of years that you used, but in the
22 testimony you just gave you said - you stated that
23 he did not, at least to your knowledge, commit any
24 crimes. How did you come to that conclusion that he
25 has not committed any crimes at least within the

1 last six years?

2 A. I did interview him. I did interview
3 him. I did talk to him. I did check his driving
4 record, and that's what I do.

5 Q. And with respect to the other drivers
6 that you have under your employ - under Good Cab,
7 did you provide the enforcement officers with their
8 criminal background histories?

9 A. I don't recall exactly, but if I don't -
10 as I said, some drivers, they start the same day the
11 officer comes. That's not my fault. That is the
12 nature of the business. Or some drivers, they may
13 work with us like two years ago, then they come this
14 day and say we want to work. So if they did work
15 with us before, maybe like two or three years ago,
16 and they come and want to start today, it is the
17 nature of the business. It's not really - you're
18 dealing with - you're dealing with cab drivers.
19 It's not really you're dealing with state retired
20 employees. You're dealing with a cab driver. They
21 work for a couple years, then they come. They may
22 come for a week, but they worked for us three years
23 ago. But three years ago we have the criminal
24 record and everything, but now we have to request a
25 new one. Like now I want to work for you. I have

1 them start, but it's old, so I say, okay, we need a
2 new driving record. I request the criminal record,
3 but it may take me a week or two to get it. But at
4 the same time, I request it. But I know that they
5 worked for us before and they were decent driver. I
6 did review their criminal record when they worked
7 for us, say, two years ago. However, two years ago,
8 two-and-a-half years ago, the criminal record is not
9 going to be valid. That's why I request a new one.
10 But I may have an old one for them two years ago or
11 more, but it's not going to hold. That's why I
12 request a new one.

13 ATTORNEY ARNOLD: Your Honor, I don't
14 have any further questions for this witness.

15 JUDGE: Okay.

16 Thank you. Mr. Leshner, based on
17 Redirect, do you have any - I mean, Recross, do you
18 have any further questions for your witness?

19 ATTORNEY LESHNER: No, Your Honor.

20 JUDGE: Okay.

21 Well, I do, sir, while you're on the
22 stand, please. I think this was asked by Mr. Arnold
23 a couple times, but I don't think you directly
24 answered it. The question is did you provide
25 anything, any documents, to Officer Griffith as to

1 whether you did any initial criminal history -
2 criminal background check on Mr. Hickman, Mr. Carl
3 Carter or Latisha Waker (sic)?

4 THE WITNESS: I do remember - I
5 believe, Your Honor, I did provide the request for
6 background -.

7 JUDGE: That's not my question. My
8 question is, did you provide the background
9 histories, the criminal background histories?

10 THE WITNESS: I don't remember. I
11 don't think so, Your Honor.

12 JUDGE: What is the date of hire of
13 Mr. Hickman? What date did you hire him and he
14 start employ with Good Cab?

15 THE WITNESS: I think it was around
16 the time that the PUC - the PUC came for inspection,
17 because as I said, these drivers, they come and go
18 all the times.

19 JUDGE: What is the date of hire of
20 Mr. Carl Carter?

21 THE WITNESS: I think all those are
22 the - around the same time, Your Honor.

23 JUDGE: And what is the date of hire
24 of Latisha Waker?

25 THE WITNESS: I don't have the paper

1 in front of me, but as I said, Your Honor, it was
2 around the same time, around the same time the PUC -
3 as I said, the nature of the business, they will
4 come and go all the times.

5 JUDGE: Okay. Thank you.

6 THE WITNESS: So it was around the
7 same time -.

8 JUDGE: Any questions based on what I
9 asked? Okay. Thank you. Mr. Leshner, I'll let you
10 follow up. Do you have any questions based on my
11 questions?

12 ATTORNEY LESHNER: I do not, Your
13 Honor.

14 JUDGE: Mr. Arnold, I guess I should
15 give you an opportunity to see if you have any
16 follow-up questions to mine.

17 ATTORNEY ARNOLD: Yes, let me ask just
18 some additional questions.

19 JUDGE: They only go to the questions
20 that I asked.

21 ATTORNEY ARNOLD: Right. Your Honor,
22 I have no further questions.

23 JUDGE: Thank you. Mr. Leshner, do
24 you have anything further?

25 ATTORNEY LESHNER: I do not, Your

1 Honor, but I would ask the opportunity to provide a
2 brief on the constitutionality of this particular
3 statutory section.

4 JUDGE: Yes. Since you raised that
5 question, that would be helpful to me. So let's
6 discuss briefs. Mr. Arnold, is that agreeable to
7 you? Would you like the opportunity to also provide
8 a brief?

9 ATTORNEY ARNOLD: I guess since you
10 will be providing Attorney Leshner with the
11 opportunity to submit a brief, then I would also
12 request the opportunity to submit a brief as well
13 then.

14 JUDGE: Okay.

15 Then let's talk timing. So the court
16 reporter, of course, is going to - we can go off the
17 record for this, Marissa.

18 ---

19 (WHEREUPON, AN OFF RECORD DISCUSSION WAS HELD.)

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HEARING CONCLUDED AT 12:12 P.M.

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CERTIFICATE

I hereby certify, as the stenographic reporter,
that the foregoing proceedings were taken
stenographically by me, and thereafter reduced to
typewriting by me or under my direction; and that this
transcript is a true and accurate record to the best
of my ability.

Dated the 15 day of August, 2022


Mariss Mantia, Court Reporter

Sargent's Court Reporting Service, Inc.
210 Main Street
Johnstown, PA 15901

HISTORY OF THE PROCEEDING

Pre-consolidation

On February 9, 2022, I&E filed a Formal Complaint (Complaint) against Best Taxi LLC (Best Taxi or Respondent) alleging that, as a result of an inspection by PUC Enforcement Officers of Respondent's vehicle and driver records on October 6, 2021, 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).

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

On February 14, 2022, I&E filed a Formal Complaint (Complaint) against Good Cab, LLC (Good Cab or Respondent) alleging that, as a result of an inspection by PUC Enforcement Officers of Respondent's vehicle and driver records on October 7, 2021, that Good Cab committed 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

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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 seeks 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 total \$1,800. The prosecution against Good Cab was docketed at No. C-2022-3029079 (*Good Cab*).

On March 4, 2022, Best Taxi and Good Cab (collectively Respondents or Companies) filed Answers through their same counsel, Cory A. Leshner, Esquire. In both Answers, Respondents denied the material allegations in their respective Complaint. Alternatively, the Companies asked that the Commission grant them leniency and reduce the requested fine amount as the PUC may deem appropriate under the circumstances.

In *Best Taxi*, on May 4, 2022, a Hearing Notice was issued scheduling a hearing for June 14, 2022, and Administrative Law Judge (ALJ) Elizabeth H. Barnes was assigned as the presiding officer. On May 11, 2022, the hearing was rescheduled for July 19, 2022. On June 15, 2022, a Judge Change Notice was issued reassigning *Best Taxi* to ALJ Dennis J. Buckley and the July 19, 2022, hearing date remained the same.

In *Good Cab*, on May 5, 2022, a Hearing Notice was issued scheduling a hearing for June 21, 2022, and the undersigned ALJ was assigned as the presiding officer.

Good Cab Hearing

On June 21, 2022, a hearing was held before the undersigned ALJ. Good Cab was represented by Attorney Leshner and I&E was represented by Alphonso Arnold,

III, Esquire.¹ During the hearing, I&E presented the testimony of Travis Griffith, an Enforcement Officer in the PUC's Motor Carrier Division. Officer Griffith sponsored six exhibits which were admitted into the record. They are:

- I&E Exhibit 1. Inspection Report
- I&E Exhibit 2. Officer Report
- I&E Exhibit 3. Vehicle / Driver Report
- I&E Exhibit 4. Court Summary, employee Hickman
- I&E Exhibit 5. Criminal Docket, employee Hickman
- I&E Exhibit 6. Criminal Docket, employee Hickman

Following the prosecution's case, counsel for Best Taxi made an opening statement during which the Company raised for the first time that Section 29.505(b)(1) of the Commission Regulations, 52 Pa. Code § 29.505(b)(1) (relating to the criminal history of employees), is unconstitutional. Tr. 6/21/2022, at 50-51. During the hearing, Respondent presented the testimony of Maher Saber Ahmed, owner and operating manager of Good Cab. Respondent did not offer any exhibits for the record.

At the conclusion of the hearing, Attorney Leshner requested the opportunity to file a brief on the issue Respondent raised during the hearing – namely, whether 52 Pa. Code § 29.505(b)(1) violates the Pennsylvania Constitution. I granted this request over no objection from I&E. Tr. 6/21/2022, at 79.

The day following the hearing, on June 22, 2022, I memorialized the results of the briefing discussion and issued a Briefing Order allowing Good Cab to file a main brief within thirty days after the hearing transcript was filed. I&E was given until thirty days after service of Respondent's main brief to file a reply brief.

¹ Attorney Arnold withdrew his appearance from the *Good Cab* and *Best Taxi* matters on July 12, 2023, due to his appointment as an ALJ with the PUC. I did not consult ALJ Arnold in the disposition of this matter and ALJ Arnold did not participate in any manner in the disposition of this matters.

On July 1, 2022, before the hearing transcript was filed, I issued an Order scheduling a conference with the parties for the sole purpose of allowing I&E the opportunity to submit certified, official copies of the criminal convictions of Good Cab's employee at issue, since its exhibits relating to such (I&E Exhibits 4, 5, and 6) were docket summaries obtained from the website of the Administrative Office of Pennsylvania Courts. This Order also stated that the parties may stipulate to the criminal convictions since the convictions themselves were not contested by Good Cab. The parties later did enter such stipulation, as explained below.

Best Taxi Hearing

On July 19, 2022, the *Best Taxi* hearing convened as scheduled before ALJ Buckley. Best Taxi was represented by Attorney Leshner and I&E was represented by Attorney Arnold. Prior to the hearing, the parties jointly requested the consolidation of the *Best Taxi* and *Good Cab* matters. Tr. 7/19/2022 at 6-7. Attorney Leshner explained during this hearing that in the *Best Taxi* matter, Respondent intended to raise the same issue that was raised in the *Good Cab* matter which is whether Section 29.505(b)(1) of the Commission's Regulation was constitutional. Attorney Leshner also explained that both Respondents, Good Cab and Best Taxi, are owned by the same individual and he represented both Companies.

ALJ Buckley, in consultation with the undersigned, agreed to consolidate these matters. We found that doing so was in the public interest as it would promote the efficient use of the time and resources of the parties and the Commission, as they raised common issues of law and fact.

In light of the agreement to consolidate these matters, on July 19, 2022, I issued an Order suspending the briefing schedule in the *Good Cab* matter. On August 17,

2022, the 80-page hearing transcript and exhibits of the *Good Cab* hearing were filed with the Commission.

Consolidation

On September 23, 2022, both proceedings were formally consolidated for adjudication and resolution by an Order signed by ALJ Buckley and myself. On this same date, a Judge Change Notice was issued reassigning *Good Cab* from the undersigned presiding officer to ALJ Buckley so that he would preside over both matters until resolution.

Post-consolidation

On November 10, 2022, ALJ Buckley issued a Further Prehearing Conference Notice scheduling a conference before him on November 22, 2022. During this conference, which was held as scheduled, the parties agreed to confer with each other and if possible, file a joint stipulation of facts. ALJ Buckley also explained that he would schedule a hearing concerning the *Best Taxi* matter which would be held if the parties could not agree to a factual stipulation; and if they could agree, then the hearing would be cancelled and a briefing schedule would be established. Tr. 11/22/2022, at 15-16.

On January 9, 2023, the parties filed a Joint Stipulation of Facts in the *Best Taxi* matter, and the hearing which had been scheduled for June 8, 2023, was cancelled.

On September 22, 2023, I&E and Respondents filed briefs addressing the sole issue raised by Respondents in both matters.²

² While the record does not include a formal briefing order, both parties indicated in their cover letters to their briefs that the ALJ directed a briefing deadline of September 22, 2023. I&E's brief was initially rejected for filing due to an erroneous

On November 15, 2024, the parties filed a Joint Stipulation of Facts in the *Good Cab* matter. This Stipulation also incorporated the evidentiary hearing held in the *Good Cab* matter on June 21, 2022, and was intended by the parties to be consistent with the record. *See* Joint Stipulation of Fact in *Good Cab*, No. 15.³

On April 22, 2025, a Judge Change Notice was issued reassigning these consolidated matters to the undersigned ALJ.⁴

For all the reasons discussed below, Respondents' constitutional challenge to the Commission's regulation at issue will be denied, the Complaints will be sustained, and Respondents will be fined accordingly.

FINDINGS OF FACT

The following findings have been stipulated by the parties in their Joint Stipulation of Facts concerning the *Best Taxi* matter filed on July 9, 2023 (JSF Best Taxi), and the Joint Stipulation of Facts concerning the *Good Cab* matter filed on November 15, 2024 (JSF Good Cab), and/or taken from the *Good Cab* hearing.⁵ Since the stipulated facts in both matters overlap, are repetitive, and contain procedural history, they have been edited and reorganized for clarity purposes of this decision.

docket number on its transmittal letter, which was corrected on September 25, 2023. *See* cover letter attached to I&E's brief dated Sept. 25, 2023).

³ The record does not reflect any activity between the parties' filing of briefs on September 22, 2023, and the parties' filing of the Joint Stipulation of Fact in the *Good Cab* matter on November 15, 2024. However, said Stipulation states that it was being filed at the direction of ALJ Buckley.

⁴ The record does not reflect any activity between the November 15, 2024 filing and the April 22, 2025, Judge Change Notice.

⁵ Therefore, any reference to a transcript in the findings of facts refers to the *Good Cab* hearing transcript.

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Parties

1. The Complainant is the Pennsylvania Public Utility Commission's Bureau of Investigation and Enforcement and is the entity established by statute to prosecute complaints against public utilities. 66 Pa.C.S. § 308.2(a)(11); *Implementation of Act 129 of 2008; Organization of Bureaus and Offices*, Docket No. M-2008-2071852 (Order entered Aug. 11, 2011) (delegating authority to initiate proceedings that are prosecutory in nature to I&E).
2. The Respondents are Good Cab LLC and Best Taxi, LLC, public utilities engaged in the transportation of persons for compensation within this Commonwealth as certificated call or demand entities. JSF Best Taxi No. 2; JSF Good Cab No. 2.
3. Good Cab and Best Taxi have a principal place of business at 2304 Walnut Street, Harrisburg, Pennsylvania 17103. JSF Best Taxi No. 2; JSF Good Cab No. 2.
4. On June 22, 2005, the Commission issued Good Cab a Certificate of Public Convenience for taxi service at Docket No. A-0012086. JSF Good Cab No. 3.
5. On March 24, 2017, the Commission issued Best Taxi a Certificate of Public Convenience for taxi service at Docket No. A-2016-2529890. JSF Best Taxi No. 3.
6. Maher Saber Ahmed owns both Good Cab and Best Taxi. JSF Good Cab No. 4; JSF Best Taxi No. 4.

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7. Maher Saber Ahmed has 20 years of experience in the taxicab industry and is the owner of several taxicab companies organized in the central Pennsylvania area. JSF Good Cab No. 5; JSF Best Taxi No. 5.

8. Mr. Ahmed is the primary individual in charge of hiring drivers on behalf of Good Cab and Best Taxi and several other taxicab companies in the central Pennsylvania area. JSF Good Cab No. 6; JSF Best Taxi No. 6.

Best Taxi Violations

9. On October 6, 2021, PUC enforcement officers conducted an annual inspection of Best Taxi at the Company's place of business. JSF Best Taxi No. 7.

10. During the October 6, 2021 annual inspection of Best Taxi, the enforcement officers inspected the vehicle and driver records maintained by the Company. JSF Best Taxi No. 9.

11. Best Taxi LLC had two taxicab drivers employed at the time of the October 6, 2021 inspection: Ricky Roberts and Harvell Johnson. JSF Best Taxi No. 8.

12. The Best Taxi taxicab drivers maintained log sheets for some but not all shifts they operated. JSF Best Taxi No. 10.

13. Inspection of the driver records maintained by Best Taxi during the October 6, 2021 annual inspection included review of the criminal background histories maintained by the Company of its drivers. JSF Best Taxi No. 11.

14. Best Taxi's records included the required criminal background histories for all drivers. JSF Best Taxi No. 12.

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15. Review of the criminal background histories of Best Taxi's taxicab drivers revealed that driver Mr. Johnson was convicted on August 11, 2015, in Dauphin County, Pennsylvania, of the manufacture, delivery, or possession with intent to manufacture or deliver, a controlled substance, or knowingly creating, delivering or possessing with intent to deliver, a counterfeit controlled substance, which offense is graded as a felony under The Controlled Substance, Drug, Device, and Cosmetic Act, 35 P.S. § 780-113(a) (30). JSF Best Taxi No. 13.

16. Best Taxi, via its owner Mr. Ahmed, was aware of Mr. Johnson's felony drug-related criminal conviction prior to his hire as a driver. JSF Best Taxi No. 14.

17. Mr. Ahmed interviewed Mr. Johnson prior to his hire and, based upon Mr. Ahmed's experience in the industry, determined that Mr. Johnson's prior felony conviction would not prevent him from performing the duties required of a taxi driver. JSF Best Taxi No. 15.

18. Mr. Ahmed, using his experience and judgment, determined that Mr. Johnson's criminal history was not relevant to the position of taxi driver and thus should not disqualify him from the position. JSF Best Taxi No. 16.

19. I&E's Complaint does not allege any violations by or attributable to Mr. Johnson other than he was acting as a taxi driver where he should have been disqualified from doing so due to his criminal history pursuant to 52 Pa. Code § 29.505(b)(1)(i)(D). JSF Best Taxi No. 19.

20. Despite the felony conviction, Mr. Ahmed decided to hire Mr. Johnson as a taxi driver for Best Taxi. JSF Best Taxi No. 17.

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Good Cab Violations

21. On October 7, 2021, PUC Enforcement Officers Travis Griffith, Barry Pacovsky, and Elliot Miller conducted an inspection of the vehicle and driver records of Good Cab. JSF Good Cab No. 7.

22. On February 11, 2022, based upon the Enforcement Officers' inspection of the records, the Motor Carrier Division filed a Complaint against Good Cab. JSF Good Cab No. 8.

23. The Good Cab taxicab drivers failed to maintain log sheets for all of the shifts they operated. Tr. 24.

24. Good Cab failed to review the criminal histories of three drivers prior to allowing them to operate company vehicles. JSF Good Cab No. 8; Tr. 73.

25. Good Cab allowed one driver, Mr. Brian Hickman, to operate a taxicab even though, due to his criminal history, he was neither qualified nor suitable to provide safe transportation. JSF Good Cab No. 8.

26. Mr. Hickman was convicted in Philadelphia County, Pennsylvania in 2006 of robbery, a felony of the first degree, in violation of the Pennsylvania Crimes Code, 18 Pa.C.S. § 3701(a)(1)(i), and was sentenced to five to ten years imprisonment. JSF Good Cab No. 10.

27. Robbery under 18 Pa.C.S. § 3701(a)(1)(i) is considered a "crime of violence" pursuant to the Crimes Code. 18 Pa.C.S. § 5702 (relating to definitions).

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28. Mr. Hickman was convicted in Philadelphia County, Pennsylvania in 2017 of possession with intent to manufacture or deliver a controlled substance, and criminal conspiracy to commit the aforesaid drug offense, which offenses are felony violations of The Controlled Substance, Drug, Device, and Cosmetic Act, 35 P.S. § 780-113(a)(30) and the Pennsylvania Crimes Code, 18 Pa.C.S. § 903, respectively. JSF Good Cab No. 10; I&E Exhibit 6.

29. Good Cab, via its owner, Mr. Ahmed, was aware of Mr. Hickman's criminal convictions prior to his hire. JSF Good Cab No. 11.

30. Mr. Ahmed interviewed Mr. Hickman prior to his hire and based upon Mr. Ahmed's experience in the industry, determined that Driver Hickman's prior felony convictions would not prevent him from performing the duties required of a taxi driver. JSF Good Cab No. 12.

31. Mr. Ahmed, using his experience and judgment, determined that Mr. Hickman's criminal history was not relevant to the position of taxi driver and thus should not disqualify him from the position. JSF Good Cab No. 13.

32. Despite the felony convictions, Mr. Ahmed decided to hire Mr. Hickman as a taxi driver for Good Cab. JSF Good Cab No. 14.

DISCUSSION

Enforcement of Code and Regulations

The Commission is empowered and charged with the duty to enforce the requirements of the Public Utility Code (Code), 66 Pa.C.S. § 501(a). The Commission has the authority to supervise and regulate all public utilities doing business within this

Commonwealth, and “may make such regulations, not inconsistent with law, as may be necessary or proper in the exercise of its powers or for the performance of its duties.” 66 Pa.C.S. § 501(b). 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. 66 Pa.C.S. § 701.

The Complainant, I&E, was established by statute to prosecute complainants against public utilities pursuant to 66 Pa.C.S. § 308.2(a)(11); *see Implementation of Act 129 of 2008: Organization of Bureaus and Offices*, Docket No. M-2008-2071852 (Order entered Aug. 11, 2011) (delegating authority to initiate proceedings that are prosecutory in nature to I&E). I&E is the proponent of a rule or order and, therefore, as the party seeking an order from the Commission, ordinarily bears the burden of proof by a preponderance of the evidence. 66 Pa.C.S. § 332(a); *Samuel J. Lansberry, Inc. v. Pa. Pub. Util. Comm'n*, 578 A.2d 600 (Pa. Cmwlth. 1990).

Regulation at issue

Good Cab and Best Taxi explain in their brief that the sole issue before the Commission is extremely narrow, which is “whether 52 Pa. Code § 29.505(b) is facially unconstitutional.” R.B. at 3.⁶ In particular, the Companies challenge Section 29.505(b)(1) (Regulation) which requires that call and demand carriers such as Respondents must disqualify driver applicants convicted of certain crimes within specified time frames. Specifically, the Regulation at issue provides:

⁶ Citations in this decision to the Respondents’ brief will be cited as “R.B.” and I&E’s brief as “I&E B.”

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§ 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:

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(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).

Companies' Position

The Companies contend that they have standing to challenge the constitutionality of the Regulation and that the Regulation is facially unconstitutional. First, the Companies assert standing on the basis that they are carriers regulated by the PUC and were cited for violating the Regulation. The Companies' entire standing argument in their brief is as follows:

Respondents have standing to make this challenge as both are certificated call or demand carriers subject to the authority and regulation of the PA Public Utility Commission. The Bureau of Investigation and Enforcement has issued each carrier a citation for its alleged violation of 52 Pa. Code § 29.505(b) and thus Respondents have standing to bring this challenge to the constitutionality of said regulation.

R.B. at 3.

Second, the Companies devote the remainder of their brief arguing that the

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Regulation violates Article I, section 1 (Art. I, § 1) of the Pennsylvania Constitution⁷ which provides:

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.

Pa. Const. art. I, § 1.

The Companies contend that among the rights guaranteed under Art. I, § 1 is the right to pursue a lawful occupation. R.B. at 4 (citing *Nixon v. Commonwealth*, 839 A.2d 277 (Pa. 2003) (*Nixon*)). Recognizing that the right to pursue a lawful occupation is an important right but not a fundamental right, the Companies contend that the Regulation must be subject to the rational basis test—i.e., a state may not deprive an individual of that right unless it can be shown that such deprivation is reasonably related to the state interest that is sought to be protected. In the Companies' view, the Regulation infringes "upon an individual's right to pursue the occupation of taxi driver, and subjects certificated carrier to punishment if a carrier were to hire such individuals." R.B. at 4.

The Companies argue that the 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. Thus, the Companies contend, the Regulation does not provide a carrier with any discretion to

⁷ In their statement of the issue in their brief, the Companies also allege that the Regulation violates the due process clause of the United States Constitution. R.B. at 3. However, this argument is not developed as the remainder of the brief focuses on Art. I, § 1 of the Pennsylvania Constitution. Therefore, this decision addresses only the alleged violation of our state Constitution.

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determine if the prior conviction of the proposed driver renders him incapable of safely operating in call or demand service. R.B. at 4-5.

In support of their constitutional challenge, the Companies cite to various cases interpreting Art. I, § 1. For example, the Companies argue that courts have held that “it is against the public policy of the Commonwealth to summarily reject an individual for employment on the ground that the individual has a prior criminal record unless in doing so the employer is furthering a legitimate public objective.” R.B. at 5-6 (citing *El v. Se. Pa Transp. Auth.*, 297 F. Supp.2d 758, 761 (E.D. Pa. 2003)). The Companies also point to cases where the court has held that the Commonwealth and its agencies may enact laws that limit an individual’s right to pursue a lawful occupation in order to achieve an important government interest, but “the means employed to reach the desired end cannot be ‘unreasonable, unduly oppressive or patently beyond the necessities of the case;’ rather, they ‘must have a real and substantial relation to the objects sought to be attained.’” R.B. at 6 (citing *Peake v. Commonwealth*, 132 A.3d 506, 521 (Pa. Cmwlth: 2015) (*Peake*); *Gambone v. Commonwealth*, 101 A.2d 634, 637 (Pa. 1954)).

In the Companies’ view, the Regulation does not pass the rational basis test because the Regulation 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. Further, the Companies contend that the Regulation does not pass the *Clayton* test, which holds that an irrebuttable presumption is not constitutional where: (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. R.B. 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 that the Regulation does not pass the second and third prongs of the *Clayton* test, the Companies point to Subsection (a)(3) of the same Regulation, 52 Pa. Code § 29.505(a)(3), which applies to disqualification of common or contract carriers due to a criminal record. 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.” Specifically, this Section provides:

§ 29.505. Criminal history.

(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 § 505(a)(3) (emphasis added).

In further support of their position that the Regulation is facially unconstitutional, the Companies point to Section 9125(b) of Pennsylvania’s Criminal History Information Act (CHRIA) 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.*” 18 Pa.C.S. § 9125(b) (emphasis added). In the Companies’ view, “there is no suggestion”

that the felony convictions at issue in the instant case relate adversely to the driver's suitability to provide service safely and legally. R.B. at 5.

The Companies contend that there is no logical or rational reason that call and 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. R.B. at 8. The Companies argue that Mr. Ahmed, as the owner of the carrier, employed his 20 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. R.B. at 8.

As relief, the Companies ask that the Commission recognize that the Regulation is facially unconstitutional and, hence, unenforceable. Accordingly, the Companies request that any citation issued by the Commission for violation of 52 Pa. Code § 29.505(b)(1) be dismissed. R.B. at 8.

I&E's position

I&E contends that the Companies lack standing to challenge the constitutionality of the Regulation. Alternatively, I&E posits that if the Companies are deemed to have standing to constitutionally challenge the Regulation, the Regulation is constitutional and enforceable because it bears a rational relationship to the interest the Commission aims to achieve.

First, I&E contends that the Companies 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. In support of this position, I&E cites to several cases discussing standing including *United States v. Hansen*, 599 U.S.

762, 769 (2023) (litigants typically lack standing to assert the rights of third parties); *Kowalski v. Tesmer*, 543 U.S. 125, 127 (2004) (*Tesmer*) (attorneys lack standing to assert rights of indigent defendants to challenge Michigan procedure on appointment of counsel for indigent criminal defendants); and *Warth v. Seldin*, 422 U.S. 490, 499 (1975) (“[T]he plaintiff generally must assert his own legal rights and interests, and cannot rest his claim to relief on the legal rights or interests of third parties.”). I&E B. at 3.

I&E argue that in the instant case, the Companies are attempting to assert the unconstitutionality of a Commission Regulation “*vis a vis* their former employees — convicted felons who were barred at the time the Commission brought its [C]omplaints against the Companies because of their convictions.” I&E B. at 4. In I&E’s view, the Companies are not asserting that their own rights have been violated by the Regulation restricting when they may employ convicted felons. Rather, because the Companies are attempting to challenge the Regulation by asserting the rights of third parties, they do not have standing. *Id.*

Alternatively, I&E’s position is that to the extent that the Companies are deemed by the Commission to have standing to constitutionally challenge the Regulation, the Commission’s Regulation prohibiting those convicted of certain crimes from operating as call or demand and limousine drivers is constitutional. I&E explains that the touchstone for evaluating whether prohibitions on certain type of work by reason of a criminal record is whether there is a rational relationship between the bar to employment and the public interest. In I&E’s view, 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. Therefore, the Regulation is constitutional. I&E B. at 3.

I&E initially explains that the burden of a litigant who challenges the constitutionality of a statute or regulation is heavy because the litigant must counteract the

presumption of constitutionality. Statutes enacted by the General Assembly, explains I&E, are presumptively valid and are held to be constitutional “unless it clearly, palpably and plainly violates the constitution.” I&E B. at 40 (citing *W. Mifflin Area Sch., Dist. v. Zahorchak*, 4 A.3d 1042, 1048 (Pa. 2010); *Barrel of Monkeys, LLC v. Allegheny Cnty.*, 39 A.3d 559, 563 (Pa. Cmwlth. 2012)). I&E states that this framework also applies to regulations promulgated by the Commission, citing *Pocono Manor Investors, LP v. Pennsylvania Gaming Control Board*, 592 927 A.2d 209, 223 (Pa. 2007) (“We presume, as we do with all statutes, that the Board intended its regulations to be constitutional.”). I&E B. at 8.

Next, I&E explains that while there is no case law addressing the constitutionality of this specific Regulation at issue, its bar to employment in a regulated job role 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. Restriction 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 B. at 5.

I&E cites to several examples of employment restriction for a criminal record including: 53 Pa.C.S § 2164(7), where Pennsylvania law prohibits any person who was convicted of a serious misdemeanor or felony from being employed as a police officer; 49 U.S.C. § 4493, where federal law prohibits the employment of anyone as an airport employee or in any position with access to an aircraft if they have been convicted of certain enumerated crimes within the 10 years preceding their employment; and 12 U.S.C. § 1829, where federal law prohibits employment at a bank or financial institution to anyone convicted of crimes of dishonesty (which include drug crimes) without the approval of the FDIC, and the FDIC may not give consent to anyone convicted of crimes involving bribery or corruption in banking, embezzlement or theft, fraud or false

statement in banking or bankruptcy transactions, obstructing the examination of a financial institution, or racketeering if the conviction is within 10 years of the job application. I&E B. at 5.

I&E also points out that since the right to pursue a particular occupation is not a fundamental right, laws which restrict the right to work in a certain occupation are analyzed under the rational basis test. Under this test, if a statute bears a rational relationship to the interest the General Assembly aims to achieve, the statute is constitutional. I&B. at 6 (citing *Nixon*). I&E explains, “[t]he Commonwealth and, by extension, the Commission, may prohibit individuals with certain criminal convictions from holding certain positions and may distinguish between classes of ex-criminals so long as there is a real and substantial relationship to the interest the Commission is seeking to achieve.” I&E B. at 6.

I&E explains that where a statute barring employment based on a past criminal conviction is challenged, courts balance the length of time between the conviction and the employment sought, the nature of the conviction (such as felony or misdemeanor, type of crime, and the details surrounding the crime) and whether it is rationally related to the job the party was denied, and whether others with similar criminal convictions are treated similarly. As an example, I&E points to *Shoul v. Commonwealth, Department of Transportation, Bureau of Driver Licensing*, 173 A.2d 669 (Pa. 2017), where the Pennsylvania Supreme Court upheld a lifetime ban on possessing a commercial driver’s license to anyone convicted of drug trafficking, reasoning that the lifetime ban passes the rational basis test on the ground that the ban is rationally related to the strong government interest in deterring drug trafficking. I&E B. at 6-7.⁸

⁸ However, *Shoul* was remanded to the trial court to determine whether a lifetime disqualification was grossly disproportionate to the holder’s conviction under the Eighth Amendment’s prohibition against cruel and unusual punishment. *Shoul*.

Next, I&E points to several other federal and state examples where courts upheld conviction-based employment restrictions. For example, I&E cites *Presser v. Brennan*, 389 F. Supp. 808 (N.D. Ohio 1975) (lifetime ban from employment as a trustee of employee benefits plans for a conviction of a violation of the Labor Management Relations Act) and *Davis v. U.S. Dept of Labor Office of Labor Management Standards*, 2017 WL 3485811 (E.D. Mich. Aug. 15, 2017) (unreported) (13-year bar to employment with unions for certain enumerated offenses pursuant to the Labor Management Reporting and Disclosure Act). See I&E B. at 6-7 for other cases cited by I&E.

I&E also points to cases where a challenge to a conviction-based employment restriction has been sustained as not passing the rational basis test, but argues that those cases involved lifetime bans and inconsistent application of the employment bar or extreme breadth of crimes making one ineligible for employment. For example, I&E cites to *Nixon* where the court struck down the application of the Older Adult Protective Services Act to bar some individuals with a criminal record but not others with the same record, depending on their date of employment; and *Peake* where the lifetime ban on employing individuals with certain convictions in elder care settings was found to be overly broad and was struck down in its entirety. See I&E B. at 7-9 for other such cases cited by I&E.

Turning to the instant Regulation, I&E contends that the Regulation bears a rational relationship to the interest the Commission aims to achieve. In I&E's view, the Regulation contains a three-tiered system for barring employment based on criminal convictions, with each tier separately accounting for the remoteness in time of the conviction, the nature of the conviction, and its relation to driving a taxi.⁹ Addressing the

⁹ I&E also argues that "the former employees here are not subjected to lifetime bans on employment." I&E B. at 9. However, it should be noted that driver Hickman's conviction for robbery, 18 Pa.C.S. § 3701(a)(1)(i), does meet the definition of

drug convictions, I&E contends the seven-year ban for the felony drug convictions ensure that taxi drivers are not going to take advantage of their passengers but operates to ensure that an individual's criminal ways are well and truly behind them and that they will not present a threat to their passengers. I&E explains this rational as follows:

People who use drugs attract trouble, can be a danger to others, and are accident prone when behind the wheel. Drug users tend to habitually, rather than recreationally, abuse their substance of choice. They tend to be addicted to drugs and tend to use drugs in situations where they are not supposed to, such as prior to or at work. They may be desperate for money and may use dishonestly, deceit, or outright theft to obtain money or property to exchange for drugs.

A person riding in a taxi is at the mercy of the driver. They may not know where they are at. They may be elderly or lower-income and rely on the taxi service for transportation. They may be by themselves. They may be inebriated. They cannot extricate themselves from any threatening situation because they are in a moving vehicle. All of these things make passengers of taxis easy marks for criminals.

I&E B. at 10 (footnote omitted).¹⁰

a "crime of violence" pursuant to 18 Pa.C.S. § 5702, thereby making him ineligible to be a call or demand driver pursuant to 52 Pa. Code § 29.505(b)(1)(iii)(B). *See also* Officer Griffith's testimony acknowledging this lifetime ban. Tr. at 42.

¹⁰ In its footnote, I&E cites to Dr. David N. Nurco DSW, Thomas E. Hanlon Ph.D., Timothy W. Kinlock M.A., "Recent Research on the Relationship Between Illicit Drug Use and Crime," *Behavioral Sciences & Law* 9 No. 3, 221-242 (Summer 1991) ("Major conclusions supported by the results of studies of the criminal activity of narcotic abusers are that both a higher prevalence and higher rates of crime are associated with more frequent use of heroin and/or cocaine, although addicts vary with regard to the type, amount, and severity of crime they commit"). I&E B. at 10.

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Accordingly, I&E requests that the Commission find that I&E's Complaints are proper and be sustained in their entirety. I&E B. at 11.

Disposition

Uncontested violations

Three of the five aggregate violations are not contested. The Joint Stipulation of Facts, the hearing record in *Good Cab*, and the briefs support 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, this decision will formally find the Companies in violation of these regulations and impose the applicable penalties as further discussed below.

Contested violations

Next, turning to the two contested counts, one count for each Company for violating the Regulation, I agree with I&E that the Companies lack standing in their instant constitutional challenge. Initially I note that the Companies do not claim that the Regulation is unconstitutional as applied to them in their respective particular circumstances. Therefore, this case does not present an "as-applied" constitutional attack, which, arguably, the Companies would have standing to bring. In contrast, the Companies have made clear that the Regulation in the instant matter is being challenged "on its face," without regard to any particularized set of circumstances. A facial challenge attacks the entire Regulation, arguing that it is unconstitutional in all applications. Facial attacks are generally disfavored in constitutional law litigation. *Commonwealth v. Pownall*, 278 A.3d (Pa. 2022).

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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. As the Companies argue, the Regulation infringes “upon an individual’s right to pursue the occupation of taxi driver[.]” R.B. at 4. While it is true that a carrier may be cited if that carrier were to hire such individuals, as what occurred in the instant case, this fact does not give rise to infringing upon the occupation of the carrier. 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.

In my view, it is not sufficient to base a facial constitutional challenge by arguing that the Regulation takes away the Companies’ discretion to determine when they may employ certain convicted felons, as the Companies argue. R.B. at 4-5. Arguably, every Regulation somehow impedes an owner’s discretion to act in some manner that they may otherwise want to act.

In general, one may not claim standing to vindicate the constitutional rights of some third party, including rights in an employer-employee relationship. *See, e.g., Singleton v. Wulff*, 428 U.S. 106 (1976) (*Singleton*). Therefore, the right to assert the instant constitutional challenge, if any, belongs to the prospective taxi or limousine driver who was denied employment on the basis of the applicant’s criminal convictions under the Regulation. Further, the Companies have not asserted any hinderance to the affected driver applicants’ ability to protect their own interests. *See Singleton* (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 Regulation has not infringed on Mr. Ahmed's right to pursue ownership and operation of the call and demand Companies.

The general rule that a party cannot assert the rights of a third party but can only assert their own legal rights and interests 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. *Tesmer*. This rule is 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. *Pitt News v. Fisher*, 215 F.3d 354 (3d Cir. 2000); *New Jersey Bankers Ass'n v. Atty Gen. New Jersey*, 49 F.4th 849 (3d Cir. 2022). Third parties themselves usually will be the best proponents of their own rights. (*Singleton*).

I find that the instant case is illustrative of the purpose of the underlying rationale of the general rule against the assertion of third-party rights. Of note, in support of their constitutional challenge, the Companies cite to Section 9125(b) of Pennsylvania's Criminal History Information Act (CHRIA) 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.*" 18 Pa.C.S. § 9125(b) (emphasis added). Yet, other than being mentioned in one sentence in their brief, there is no developed argument by the Companies that the Regulation violates CHRIA, as they seem to imply. *See* R.B. at 5. While Section 9125(b) seems dispositive, CHRIA is more complex. For example, there are limitations and/or exceptions not discussed by the Companies, and limitations on who and how an allegedly aggrieved party may pursue relief under CHRIA. In my view, 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 Regulation. On the other hand, I find that the record before me is inadequate

to address the Regulation's constitutionality which would have broad social import.

Tesmer; Singleton.

Moreover, 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. I find support in the case of *Tate v. Columbia Gas of Pennsylvania*, Docket No. C-2020-3018966 (Opinion and Order entered Oct. 10, 2024) (*Tate*), where 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 certain Commission regulation was unconstitutional because, in part, the gas company "merely applied the law in effect." *Id.* at 30.

In the instant case, although I&E is an arm of the PUC rather than a private gas company as in *Tate*, of significance, 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. 66 Pa.C.S. § 308.2(a)(11); *Implementation of Act 129 of 2008; Organization of Bureaus and Offices*, Docket No. M-2008-2071852 (Order entered Aug. 11, 2011); *see also Blue Pilot Energy LLC v. Pa. PUC*, 241 A.3d 1254 (Pa. Cmwlth. 2020). Pursuant to Act 85 of 2016, our Legislature charged the Commission with promulgating, *inter alia*, temporary regulations governing driver requirements of taxi and limousine drivers including criminal history background check requirements. *See Regulations for the Taxi and Limousine Industries*, Docket No. L-2016-2556432 (Order entered Dec. 23, 2016) (*2016 Order*). In this Order, the Commission explained, after considering the interested parties' comments concerning criminal background checks, it adopted the Legislature's treatment and language of transportation network

company (TNC) drivers, finding they should be equally applicable to taxi and limousine drivers. *2016 Order* at 13-15.¹¹ Consequently, I find that I&E is not the proper party to defend the Commission's Regulation and this is not the proper forum.

Accordingly, having found that the Companies lack standing in their facial constitutional challenge to the Regulation, civil penalties will be imposed below.

Civil Penalties

Section 3301 of the Public Utility Code, 66 Pa.C.S. § 3301, authorizes the Commission to impose civil penalties on any public utility up to \$1,000 per violation for the failure to file or pay the annual assessment on time. Each and every day of continuance of the violation is a separate offense. 66 Pa.C.S. § 3301(b). The Commission has adopted a policy statement that articulates the factors used to determine the reasonableness of civil penalties to be imposed in litigated and settled cases. *See* 52 Pa. Code § 69.1201. The standards in 52 Pa. Code §69.1201(c) are set forth below:

(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.

¹¹ *Cf.* 66 Pa.C.S. § 2604.1(b)(5)(i), which imposes the same three-tiered driver disqualifying criminal convictions as the instant Regulation. The *2016 Order* comments, "We believe that the Legislature's treatment of TNC drives should be equally applicable to taxi and limousine drivers and adequately addresses the Commentators' concern. Therefore, we will adopt this language[.]" (*2016 Order* at 15).

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(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).

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In the instant case, neither party addressed the fine amount. Nonetheless, I find that the fines proposed by I&E in each Complaint is consistent with fines imposed by the Commission in past cases. Therefore, the fines requested by I&E will be imposed.¹²

CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the subject matter and the parties to this proceeding. 66 Pa.C.S. §§ 501, 701.
2. The Commission is empowered and charged with the duty to enforce the requirements of the Public Utility Code (Code). 66 Pa.C.S. § 501(a).
3. The Commission has the authority to supervise and regulate all public utilities doing business within this Commonwealth, and may make such regulations, not inconsistent with law, as may be necessary or proper in the exercise of its powers or for the performance of its duties. 66 Pa.C.S. § 501(b).
4. 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. 66 Pa.C.S. § 701.
5. Among the rights guaranteed under Article I, Section 1 of the Pennsylvania Constitution is the right to pursue a lawful occupation. *Nixon v. Commonwealth*, 839 A.2d 277 (Pa. 2003).

¹² See *supra* at 2-3 for the fine proposed for each violation in each matter.

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6. In general, one may not claim standing to vindicate the constitutional rights of some third party. *United States v. Hansen*, 599 U.S. 762 (2023); *Singleton v. Wulff*, 428 U.S. 106 (1976); *Kowalski v. Tesmer*, 543 U.S. 125 (2004).

7. Statutes enacted by the General Assembly, are presumptively valid and are held to be constitutional unless it clearly, palpably and plainly violates the constitution. *W. Mifflin Area Sch. Dist. v. Zahorchak*, 4 A.3d 1042 (Pa. 2010).

8. The Respondents lack standing to challenge 52 Pa. Code § 29.505(b)(1) as facially unconstitutional.

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

10. The fines proposed by the Bureau of Investigation and Enforcement are appropriate.

ORDER

THEREFORE,

IT IS ORDERED:

1. 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.
2. 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.
3. That within thirty (30) days of the entry date of the Final Commission Order in this matter, 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 send to:

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

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4. 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 provide 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

5. That the Public Utility Commission's Bureau of Technical Utility Services suspend or revoke Best Taxi LLC's Certificate of Public Convenience at Docket No. A-201-2529890, if payments totaling \$1,050 in Ordering Paragraph No. 3 above are not received from Best Taxi LLC within thirty (30) days after service of the Public Utility Commission's Final Order.

6. That the Public Utility Commission's Bureau of Technical Utility Services suspend or revoke Good Cab LLC's Certificate of Public Convenience at Docket No. A-0012086, if payments totaling \$1,800 in Ordering Paragraph No. 4 above

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**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,

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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.

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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

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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.

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(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 inalienable 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

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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.

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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).

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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,

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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,



Matthew L. Homsher
Secretary

(SEAL)

ORDER ADOPTED: September 25, 2025

ORDER ENTERED: September 25, 2025

PENNSYLVANIA PUBLIC UTILITY COMMISSION
Harrisburg, Pennsylvania 17120

**Pennsylvania Public Utility Commission,
Bureau of Investigation and Enforcement
v.
Best Taxi, LLC, and Good Cab, LLC**

**Public Meeting held September 25, 2025
OSA-3029070
Docket No. C-2022-3029070**

STATEMENT OF VICE CHAIR KIMBERLY BARROW

Before the Commission is a complaint by the Bureau of Investigation and Enforcement against Best Taxi, LLC, and Good Cab, LLC. Most of the complaint is undisputed, however Best Taxi and Good Cab (collectively Best Taxi, for convenience) challenge the facial validity of 52 Pa. Code § 29.505(b)(1)(i)(D) (the Regulation), which requires a motor carrier to disqualify any applicant for employment if the applicant was convicted of violating Pennsylvania's Controlled Substance, Drug, Device and Cosmetic Act within the preceding seven years.

Standing

Best Taxi argues that the Regulation is invalid because it conflicts with Article I, Section I of the Pennsylvania Constitution, as well as the Pennsylvania Criminal History Record Information Act, specifically 18 Pa.C.S. § 9125(b).

The Initial Decision determines that Best Taxi is prohibited from its challenge because it lacks standing to assert the rights of drivers. The Initial Decision is correct that "one ordinarily has no standing to vindicate the constitutional rights of third persons." *Philadelphia Facilities Mgmt. Corp. v. Biester*, 431 A.2d 1123, 1131 (Pa. Cmwlth. 1981). A litigant may overcome the third-party standing doctrine by showing "(1) the relationship of the litigant to the third party is such that enjoyment of the right by the third party is inextricably bound up with the activity the litigant seeks to pursue; and (2) there is some obstacle to the third party's assertion of his own right." *Id.*

Best Taxi argues Article I, Section I prohibits the summary rejection for "employment on the ground that the individual has a prior criminal record unless in doing so the employer is furthering a legitimate public objective." Brief at 5-6, citing *El v. Se. Pennsylvania Transp. Auth.*, 297 F.Supp.2d 758, 761 (E.D. Pa. 2003). I agree that this ground invokes the rights of a third party, and therefore Best Taxi must meet the standard for third-party standing. They do not. When asserting standing, at the summary judgment stage of the proceeding or beyond, "the plaintiff can no longer rest on such mere allegations but must set forth by affidavit or other evidence specific facts, which for the purpose of summary judgment will be taken as true." *Muth v. Dep't of Env't Prot.*, 315 A.3d 185, 196 (Pa. Cmwlth. 2024). After reviewing the hearing transcript and stipulated facts, I do not believe Best Taxi has put forward evidence to show third-party standing.

However, Best Taxi satisfies the conditions for standing with respect to the potential conflict between the Criminal History Record Information Act and the Regulation because the Regulation as well as 18 Pa.C.S. § 9125(b) are not directed at the employee, but the employer. The Regulation requires that the carrier disqualify applicants if they have a predicate conviction. The Regulation is not targeted at the employees whatsoever. Likewise, 18 Pa.C.S. § 9125(b) prohibits *an employer* from considering an applicant's suitability for employment in the position at issue. For this challenge, Best Taxi is asserting its own standing, not the applicant's.

Raising Constitutional Challenges to Regulations

The Initial Decision also determines that the Bureau of Investigation and Enforcement (Bureau) is not the proper party to defend the Commission's regulations against a charge of unconstitutionality. This is a mistake of law:

The Initial Decision reasons, based on *Tate v. Columbia Gas of Pennsylvania*, Docket No. C-2020-3018966 (Opinion and Order entered Oct. 10, 2024) that the Commission, instead of any other party, is the appropriate entity to defend the constitutionality of its regulations. However, the reliance on *Tate* is misplaced. In *Tate* a consumer brought a complaint against Columbia Gas for unreasonable service even though Columbia Gas was applying the law in effect. The Commission properly ruled that this was not a cognizable claim. It cannot be unreasonable service for a utility to follow Commission regulations, even if those regulations are wrong. The proper avenue is to challenge the regulations directly through a petition to the Commission.

The case here is not the same. No claim is being brought against a utility for unreasonable service for following the Commission's regulations. Instead, the Bureau of Investigation and Enforcement as an arm of the Commission is enforcing regulations against a utility and seeking a fine as a result. The Initial Decision reasons that because the Bureau is an arm of the Commission and not the Commission itself, it cannot defend the constitutionality of regulations. This is incorrect for two reasons.

First, in the context of a regulatory prosecution, the result of the Initial Decision would totally prohibit raising the validity of regulations as a defense. Contrary to that result, "agencies have authority to consider the validity of their regulations" including constitutional validity. *Lehman v. Pennsylvania State Police*, 839 A.2d 265, 275 (Pa. 2003).¹ The defense was therefore appropriately raised, and it should be evaluated.

Second, the Initial Decision misunderstands the relationship between the Bureau and the Commission. The independence of the Bureau is necessitated by the result of *Lyness v. Com., State Bd. of Med.*, 605 A.2d 1204, 1204 (Pa. 1992). *Lyness* concluded quite simply that the same

¹ See also *Delaware Valley Apartment House Owner's Ass'n v. Com., Dep't of Revenue*, 389 A.2d 234, 237 (Pa. Cmwlth. 1978) ("[A]dministrative agencies have the authority to determine the validity and constitutionality of their regulations"); *Pennsylvania Ass'n of Rehab. Facilities v. Foster*, 608 A.2d 613, 616 (Pa. Cmwlth. 1992) ("Administrative agencies have ancillary jurisdiction to rule on the validity of their own regulations in actions before them challenging the application or enforcement of the allegedly invalid regulation.")

entity could not initiate and prosecute and at the same time be the ultimate judge in an administrative prosecution. *Id.* As a result, the Commission first created separation between its prosecutors and adjudicators, and then later the Bureau was created as part of Commission reorganization due to Act 129 of 2008. The effect of *Lyness* is to make Commission prosecutions much more like prosecutions within the Courts of Common Pleas, with a separation between the judge and prosecutor. Further analogizing to trial courts, prosecutors routinely defend the constitutionality of criminal statutes. So too may the Bureau defend the constitutionality of the regulations which it enforces.²

September 25, 2025



Kimberly Barrow, Vice Chair

² Although the Bureau may defend the constitutionality of commission regulations it enforces, it need not generally defend the constitutionality to challenges against the Public Utility Code itself, because the Commission cannot invalidate their own enabling statutes. The agency must still evaluate "as applied" challenges to the constitutionality of a statute. *Lehman*, 839 A.2d at 274.

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Pennsylvania Public Utility Commission	:	Docket No. C-2022-3029079
Bureau of Investigation and Enforcement	:	A-632578
	:	
v.	:	
Good Cab, LLC	:	

PETITION FOR RECONSIDERATION FROM STAFF ACTION AND FOR *NUNC PRO TUNC* ISSUANCE OF A STAY OF COMMISSION ORDER DATED SEPTEMBER 25, 2025

TO THE PENNSYLVANIA PUBLIC UTILITY COMMISSION:

Good Cab, LLC (“Good Cab”), by and through its undersigned counsel, and pursuant to the provisions of 52 Pa. Code §5.44 files this Petition for Reconsideration from Staff Action. Good Cab respectfully request that the Commission reconsider the Staff Action taken October 28, 2025 insofar as the Secretary issued a Cancellation of Good Cab’s Certificate of Public Convenience and to grant Good Cab’s *nunc pro tunc* request for a stay of the Commission’s September 25, 2025 Order. In support of this petition and the requested relief, Good Cab states as follows:

1. Good Cab was issued a certificate of public convenience to transport as a common carrier, by motor vehicle, persons in call or demand service on June 22, 2005 at PUC number A-632578.
2. On or about February 14, 2022, the Commission, via the Bureau of Investigation and Enforcement issued a formal complaint (C-2022-3029079) against Good Cab for several violations including:

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- a. failing 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);
 - b. allowing 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
 - c. failing to require the employee drivers to maintain log sheets for all trips in violation of 52 Pa Code §29.313(c).
3. The Complaint requested that the Commission issue a fine to Good Cab in the amount of \$1,800.00 for the above referenced violation and order such other remedy that the Commission may deem appropriate.
4. The above matter was consolidated with a complaint against Best Taxi, LLC docketed at C-2022-3029070.
5. Following consolidation, the parties engaged in extensive litigation related to whether 52 Pa. Code § 29.505(b) is facially unconstitutional.
6. Ultimately ALJ Gail M. Chiodo issued an Initial Decision on June 18, 2025 holding that the taxi companies lacked standing to contest the constitutionality of 52 Pa. Code § 29.505(b).
7. Good Cab filed exceptions on July 18, 2025 which were deemed to be untimely.
8. On September 25, 2025, the Commission issued an Opinion and Order adopting the ALJ's Initial Decision and holding that Good Cab does not have standing to contest the constitutionality of 52 Pa. Code § 29.505(b).

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9. The Order provided that the fines imposed in the amount of \$1,800 were to be remitted within 30 days or else Good Cab could face suspension or cancellation of its certificate.
10. On October 7, 2025, Good Cab submitted a Petition for Review to the Commonwealth Court and docketed notice of appeal to the docket referenced above.
11. Good Cab did not file a request to stay the Commission's September 25, 2025 Order.
12. On October 28, 2025, Good Cab received notice that the Secretary had cancelled Good Cab's certificate of public convenience thereby denying Good Cab the ability to continue to operate as a call or demand carrier.
13. Good Cab's appeal to the Commonwealth Court was timely filed so as to preserve further review of the issues that had been subject to litigation before the Commission since 2022.
14. It is of note, that the primary justification proffered by the Commission as to Good Cab's lack of standing was that Mr. Ahmed, the owner of Good Cab, was not prevented from pursuing ownership and operation of Good Cab as a result of the challenged regulation.
15. Of course, now that Good Cab's certificate of public convenience has been cancelled, Mr. Ahmed can no longer operate Good Cab as a call or demand carrier.
16. Good Cab would respectfully request that the Commission rescind the Cancellation Notice issued October 28, 2025 and reinstate Good Cab's certificate of public convenience.
17. Good Cab would further request that the Commission grant its *nunc pro tunc* request for a stay of the Commission's September 25, 2025 Order pending the outcome of appeal in this matter.
18. This Commission has indicated that the grant of a stay is warranted if:
 - (1). The petitioner makes a strong showing that he is likely to prevail on the merits.

(2). The petitioner has shown that without the requested relief, he will suffer irreparable injury.

(3). The issuance of a stay will not substantially harm other interested parties in the proceedings.

(4). The issuance of a stay will not adversely affect the public interest.

Pennsylvania Pub. Util. Comm'n v. Vacation Charters, Ltd., 70 Pa. P.U.C. 439 (Aug. 17, 1989)

19. There is no doubt that Petition will suffer irreparable harm if the stay is not granted as the Secretary has cancelled its certificate of public convenience and essentially put Good Cab out of business. Without a *nunc pro tunc* stay and reinstatement, Good Cab will suffer significantly insofar as its will not be able to continue to operate during the pendency of the appeal.

20. The issuance of the stay will not harm the other parties. This matter has been pending and subject to litigation since 2022 without harm to anyone. Further delay to permit an appeal will not harm Good Cab or the Commission.

21. The issuance of the stay will not harm the public. Again, this complaint has been pending since 2022 without effect to the traveling public. If anything the stay would benefit the public by permitting Good Cab to continue to operate while the Court's make a determination of this issue of great importance.

22. Circling back to the first criteria for imposition of a stay, Petitioner would argue that it has made a strong showing that it can succeed on the merits.

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23. Good Cab has brought a facial challenge to the regulation at issue¹ and asserts that it has standing due the fact that the regulation at issue can only be enforced against the carrier.
24. The Commission held that the ALJ's decision on standing was accurate because the application of the regulation did not prevent Good Cab from operating as a certificated carrier.
25. However, following the Secretary's cancellation of Good Cab's certificate of public convenience, circumstances have changed.
26. Now, enforcement of the regulation that Good Cab challenges has in fact resulted in Good Cab as a carrier suffering the consequence of an inability to continue to operate as a certificated carrier.
27. It was this consequence that Good Cab argued provided it standing in the first place².
28. Good Cab believes and therefore avers that given the change in circumstances, it has made a strong showing that it possesses the requisite standing to challenge the regulation at issue.
29. Further, Good Cab believes that on the merits, if the standing issue is resolved in its favor, Good Cab will likely succeed.
30. 52 Pa. Code §29.505(b) infringes upon an individual's right to pursue the occupation of taxi driver, **and subjects certificated carrier** to punishment if a carrier were to hire such

¹ It is of note that both the ALJ and the Commission in its 9/25/25 Order acknowledge that Carrier likely has standing to pursue an as applied challenge.

² Specifically, a party has standing to sue if he or she has a substantial, direct, and immediate interest in the subject matter of the litigation. *Wm. Penn Parking Garage, Inc. v. City of Pittsburgh*, 346 A.2d 269, 280 (Pa. 1975) "A 'substantial' interest is an interest in the outcome of the litigation which surpasses the common interest of all citizens in procuring obedience to the law. A 'direct' interest requires a showing that the matter complained of caused harm to the party's interest. An 'immediate' interest involves the nature of the causal connection between the action complained of and the injury to the party challenging it, and is shown where the interest the party seeks to protect is within the zone of interests sought to be protected by the statute or constitutional guarantee in question." *S. Whitehall Twp. Police Serv. v. S. Whitehall Twp.*, 555 A.2d 793, 795 (Pa. 1989)

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individuals. Therefore, the regulation at issue is subject to a rational basis scrutiny.

Nixon v. Com., 839 A.2d 277, 288 (Pa. 2003).

31. “Under the “plainly legitimate sweep” standard, a statute is only facially invalid when its invalid applications are so real and substantial that they outweigh the statute’s “plainly legitimate sweep.” *Clifton v. Allegheny County*, 969 A.2d 1197, 1223 n. 37 (Pa. 2009).
32. “Stated differently, a statute is facially invalid when its constitutional deficiency is so evident that proof of actual unconstitutional applications is unnecessary.” *Peake v. Com.*, 132 A.3d 506, 517 (Pa.Cmwth. 2015).
33. 52 Pa. Code §29.505(b) creates a categorical ban against the hiring of drivers with certain past criminal history. The regulation creates three categories, a 7 year ban, a 10 year ban, and a lifetime ban, based solely upon the criminal history of the applicant driver.
34. Of note, 52 Pa. Code §29.505(b) provides 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. Further, the regulation does not provide a carrier with any discretion to determine if the prior conviction of the proposed driver renders him incapable of safely operating in call or demand service.
35. Of course, as the scenario has now completely played out, the effect on Good Cab’s ability to operate as a call or demand carrier is direct.
36. Good Cab believes and therefore avers that it meets all of the criteria for the Commission to issue a stay of the imposition of its September 25, 2025 Order.

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WHEREFORE, for all of the foregoing reasons, Good Cab, LLC respectfully requests that the Commission rescind the Cancellation Notice issued October 28, 2025 and reinstate Good Cab's certificate of public convenience. It is further requested, that the Commission issue a stay of the effect of its September 25, 2025 Order pending resolution of Good Cab's timely filed appeal.

Respectfully submitted:

Mette, Evans & Woodside

By: /s/ Cory A. Leshner
Cory A. Leshner, Esquire
ID # 310377
caleshner@mette.com
3401 N. Front Street
Harrisburg, PA 17110

Attorney for Good Cab, LLC

Dated: November 08, 2025

VERIFICATION

I, Maher Saber, General Manager of Good Cab, LLC hereby verify that the statements made in the foregoing *Petition* are true and correct to the best of my knowledge, information and belief. I understand that the statements in the foregoing document are made subject to the penalties of 18 Pa.C.S. §4909 relating to unsworn falsification to authorities.

11/08/2025

/s/ Maher Saber

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Pennsylvania Public Utility Commission

Bureau of Investigation and Enforcement

v.

Good Cab, LLC

Docket No. C-2022-3029079

A-632578

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Petition of Good Cab, LLC has been duly served upon the persons listed, by electronic mail, in accordance with the provisions of 52 Pa. Code §1.54:

VIA EMAIL:

Grant Rosul, Prosecutor
Pennsylvania Public Utility Commission
Bureau of Investigation and Enforcement
Commonwealth Keystone Building
400 North Street, 3rd Floor
Harrisburg, PA 17120
grosul@pa.gov

Via E-Filing

Matthew Homsher, Secretary
Pennsylvania Public Utility Commission
P.O Box 3265
Harrisburg, PA 17105-3265

Mette, Evans & Woodside

By: /s/ Cory A. Leshner

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Pennsylvania Public Utility Commission	:	
	:	Docket No. C-2022-3029070
Bureau of Investigation and Enforcement	:	A-2016-2529890
	:	
v.	:	
	:	
Best Taxi, LLC	:	

PETITION FOR RECONSIDERATION FROM STAFF ACTION AND FOR *NUNC PRO TUNC* ISSUANCE OF A STAY OF COMMISSION ORDER DATED SEPTEMBER 25, 2025

TO THE PENNSYLVANIA PUBLIC UTILITY COMMISSION:

Best Taxi, LLC (“Best Taxi”), by and through its undersigned counsel, and pursuant to the provisions of 52 Pa. Code §5.44 files this Petition for Reconsideration from Staff Action. Best Taxi respectfully request that the Commission reconsider the Staff Action taken October 28, 2025 insofar as the Secretary issued a Cancellation of Best Taxi’s Certificate of Public Convenience and to grant Best Taxi’s *nunc pro tunc* request for a stay of the Commission’s September 25, 2025 Order. In support of this petition and the requested relief, Best Taxi states as follows:

1. Best Taxi was issued a certificate of public convenience to transport as a common carrier, by motor vehicle, persons in call or demand service on March 24, 2017 at PUC docket number A-2016-2529890.
2. On or about February 09, 2022, the Commission, via the Bureau of Investigation and Enforcement issued a formal complaint (C-2022-3029070) against Best Taxi for several violations including:

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- a. allowing 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
 - b. failing to require the employee drivers to maintain log sheets for all trips in violation of 52 Pa Code §29.313(c).
3. The Complaint requested that the Commission issue a fine to Best Taxi in the amount of \$1,050.00 for the above referenced violation and order such other remedy that the Commission may deem appropriate.
4. The above matter was consolidated with a complaint against Best Taxi LLC docketed at C-2022-3029079.
5. Following consolidation, the parties engaged in extensive litigation related to whether 52 Pa. Code § 29.505(b) is facially unconstitutional.
6. Ultimately ALJ Gail M. Chiodo issued an Initial Decision on June 18, 2025 holding that the taxi companies lacked standing to contest the constitutionality of 52 Pa. Code § 29.505(b).
7. Best Taxi filed exceptions on July 18, 2025 which were deemed to be untimely.
8. On September 25, 2025, the Commission issued an Opinion and Order adopting the ALJ's Initial Decision and holding that Best Taxi does not have standing to contest the constitutionality of 52 Pa. Code § 29.505(b).
9. The Order provided that the fines imposed in the amount of \$1,050 were to be remitted within 30 days or else Best Taxi could face suspension or cancellation of its certificate.
10. On October 7, 2025, Best Taxi submitted a Petition for Review to the Commonwealth Court and docketed notice of appeal to the docket referenced above.

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11. Best Taxi did not file a request to stay the Commission's September 25, 2025 Order.
12. On October 28, 2025, Best Taxi received notice that the Secretary had cancelled Best Taxi's certificate of public convenience thereby denying Best Taxi the ability to continue to operate as a call or demand carrier.
13. Best Taxi's appeal to the Commonwealth Court was timely filed so as to preserve further review of the issues that had been subject to litigation before the Commission since 2022.
14. It is of note, that the primary justification proffered by the Commission as to Best Taxi's lack of standing was that Mr. Ahmed, the owner of Best Taxi, was not prevented from pursuing ownership and operation of Best Taxi as a result of the challenged regulation.
15. Of course, now that Best Taxi's certificate of public convenience has been cancelled, Mr. Ahmed can no longer operate Best Taxi as a call or demand carrier.
16. Best Taxi would respectfully request that the Commission rescind the Cancellation Notice issued October 28, 2025 and reinstate Best Taxi's certificate of public convenience.
17. Best Taxi would further request that the Commission grant its *nunc pro tunc* request for a stay of the Commission's September 25, 2025 Order pending the outcome of appeal in this matter.
18. This Commission has indicated that the grant of a stay is warranted if:
 - (1). The petitioner makes a strong showing that he is likely to prevail on the merits.
 - (2). The petitioner has shown that without the requested relief, he will suffer irreparable injury.
 - (3). The issuance of a stay will not substantially harm other interested parties in the proceedings.

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(4). The issuance of a stay will not adversely affect the public interest.

Pennsylvania Pub. Util. Comm'n v. Vacation Charters, Ltd., 70 Pa. P.U.C. 439 (Aug. 17, 1989)

19. There is no doubt that Petition will suffer irreparable harm if the stay is not granted as the Secretary has cancelled its certificate of public convenience and essentially put Best Taxi out of business. Without a *nunc pro tunc* stay and reinstatement, Best Taxi will suffer significantly insofar as its will not be able to continue to operate during the pendency of the appeal.
20. The issuance of the stay will not harm the other parties. This matter has been pending and subject to litigation since 2022 without harm to anyone. Further delay to permit an appeal will not harm Best Taxi or the Commission.
21. The issuance of the stay will not harm the public. Again, this complaint has been pending since 2022 without effect to the traveling public. If anything the stay would benefit the public by permitting Best Taxi to continue to operate while the Court's make a determination of this issue of great importance.
22. Circling back to the first criteria for imposition of a stay, Petitioner would argue that it has made a strong showing that it can succeed on the merits.
23. Best Taxi has brought a facial challenge to the regulation at issue¹ and asserts that it has standing due the fact that the regulation at issue can only be enforced against the carrier.
24. The Commission held that the ALJ's decision on standing was accurate because the application of the regulation did not prevent Best Taxi from operating as a certificated carrier.

¹ It is of note that both the ALJ and the Commission in its 9/25/25 Order acknowledge that Carrier likely has standing to pursue an as applied challenge.

25. However, following the Secretary's cancellation of Best Taxi's certificate of public convenience, circumstances have changed.
26. Now, enforcement of the regulation that Best Taxi challenges has in fact resulted in Best Taxi as a carrier suffering the consequence of an inability to continue to operate as a certificated carrier.
27. It was this consequence that Best Taxi argued provided it standing in the first place².
28. Best Taxi believes and therefore avers that given the change in circumstances, it has made a strong showing that it possesses the requisite standing to challenge the regulation at issue.
29. Further, Best Taxi believes that on the merits, if the standing issue is resolved in its favor, Best Taxi will likely succeed.
30. 52 Pa. Code §29.505(b) infringes upon an individual's right to pursue the occupation of taxi driver, **and subjects certificated carrier** to punishment if a carrier were to hire such individuals. Therefore, the regulation at issue is subject to a rational basis scrutiny. *Nixon v. Com.*, 839 A.2d 277, 288 (Pa. 2003).
31. "Under the "plainly legitimate sweep" standard, a statute is only facially invalid when its invalid applications are so real and substantial that they outweigh the statute's "plainly legitimate sweep." *Clifton v. Allegheny County*, 969 A.2d 1197, 1223 n.37 (Pa. 2009).

² Specifically, a party has standing to sue if he or she has a substantial, direct, and immediate interest in the subject matter of the litigation. *Wm. Penn Parking Garage, Inc. v. City of Pittsburgh*, 346 A.2d 269, 280 (Pa. 1975) "A 'substantial' interest is an interest in the outcome of the litigation which surpasses the common interest of all citizens in procuring obedience to the law. A 'direct' interest requires a showing that the matter complained of caused harm to the party's interest. An 'immediate' interest involves the nature of the causal connection between the action complained of and the injury to the party challenging it, and is shown where the interest the party seeks to protect is within the zone of interests sought to be protected by the statute or constitutional guarantee in question." *S. Whitehall Twp. Police Serv. v. S. Whitehall Twp.*, 555 A.2d 793, 795 (Pa. 1989)

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32. “Stated differently, a statute is facially invalid when its constitutional deficiency is so evident that proof of actual unconstitutional applications is unnecessary.” *Peake v. Com.*, 132 A.3d 506, 517 (Pa.Cmwlth. 2015).
33. 52 Pa. Code §29.505(b) creates a categorical ban against the hiring of drivers with certain past criminal history. The regulation creates three categories, a 7 year ban, a 10 year ban, and a lifetime ban, based solely upon the criminal history of the applicant driver.
34. Of note, 52 Pa. Code §29.505(b) provides 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. Further, the regulation does not provide a carrier with any discretion to determine if the prior conviction of the proposed driver renders him incapable of safely operating in call or demand service.
35. Of course, as the scenario has now completely played out, the effect on Best Taxi’s ability to operate as a call or demand carrier is direct.
36. Best Taxi believes and therefore avers that it meets all of the criteria for the Commission to issue a stay of the imposition of its September 25, 2025 Order.

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WHEREFORE, for all of the foregoing reasons, Best Taxi, LLC respectfully requests that the Commission rescind the Cancellation Notice issued October 28, 2025 and reinstate Best Taxi's certificate of public convenience. It is further requested, that the Commission issue a stay of the effect of its September 25, 2025 Order pending resolution of Best Taxi's timely filed appeal.

Respectfully submitted:

Mette, Evans & Woodside

By: /s/ Cory A. Leshner
Cory A. Leshner, Esquire
ID # 310377
caleshner@mette.com
3401 N. Front Street
Harrisburg, PA 17110

Attorney for Best Taxi, LLC

Dated: November 08, 2025

VERIFICATION

I, Maher Saber, General Manager of Best Taxi, LLC hereby verify that the statements made in the foregoing *Petition* are true and correct to the best of my knowledge, information and belief. I understand that the statements in the foregoing document are made subject to the penalties of 18 Pa.C.S. §4909 relating to unsworn falsification to authorities.

11/08/2025

/s/ Maher Saber

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BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Pennsylvania Public Utility Commission	:	
	:	Docket No. C-2022-3029070
Bureau of Investigation and Enforcement	:	A-2016-2529890
	:	
v.	:	
	:	
Best Taxi, LLC	:	

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Petition of Best Taxi, LLC has been duly served upon the persons listed, by electronic mail, in accordance with the provisions of 52 Pa. Code §1.54:

VIA EMAIL:

Grant Rosul, Prosecutor
Pennsylvania Public Utility Commission
Bureau of Investigation and Enforcement
Commonwealth Keystone Building
400 North Street, 3rd Floor
Harrisburg, PA 17120
grosul@pa.gov

Via E-Filing

Matthew Homsher, Secretary
Pennsylvania Public Utility Commission
P.O Box 3265
Harrisburg, PA 17105-3265

Mette, Evans & Woodside

By: /s/ Cory A. Leshner

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

**ANSWER TO PETITION FOR RECONSIDERATION
FROM STAFF ACTION OF BEST TAXI, LLC AND GOOD CAB, LLC**

TO THE HONORABLE PENNSYLVANIA PUBLIC UTILITY COMMISSION:

Pursuant to 52 Pa. Code § 5.61(a), the Pennsylvania Public Utility Commission’s (“Commission”) Bureau of Investigation and Enforcement (“I&E”), by its prosecuting attorney, hereby files its Answer to the Petitions for Reconsideration from Staff Action of Best Taxi, LLC and Good Cab, LLC (“Respondents”) which were filed on November 8, 2025, requesting reconsideration of the revocation of the Respondents’ respective certificates of public convenience as well as a stay of the Commission’s Final Order in these consolidated cases.

I&E opposes the Respondents’ Petition. I&E opposes the request for a stay of the Commission’s Final Order in these consolidated cases because Respondents have not demonstrated they are entitled to a stay. Further, in a Petition for Reconsideration from Staff Act, the burden is on the petitioning party to demonstrate that it is entitled to the relief it seeks by a preponderance of evidence, and Respondents have not met that burden here.

I. HISTORY OF THE PROCEEDING

1. On February 9, 2022, I&E filed a Formal Complaint against Best Taxi LLC (“Best Taxi” or “Respondent”) alleging the following two violations:

- a. 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
- b. Failed to require the driver 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 \$1,000; and for the second offense, a fine of \$50.

These proposed fines total \$1,050. The prosecution against Best Taxi is docketed at No. C-2022-3029070 (“Best Taxi”).

2. On February 14, 2022, I&E filed a Formal Complaint against Good Cab, LLC (“Good Cab” or “Respondent”) alleging the following three violations:

- a. 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);
- b. 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
- c. 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 total \$1,800. The prosecution against Good Cab was docketed at No. C-2022-3029079 (“Good Cab”).

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3. On September 23, 2022, an Order was entered consolidating Docket Nos. C-2022-3029070 and C-2022-3029079 for litigation and resolution pursuant to 52 Pa. Code § 5.81.
4. On June 18, 2025, Deputy Chief Administrative Law Judge Chiodo (“DCALJ Chiodo”) issued an Initial Decision sustaining the Formal Complaints against Best Taxi, LLC, Docket No. C-2022- 3029070, and Good Cab, LLC, Docket No. C-2022- 3029079, and assessing civil penalties of \$1,050 and \$1,800, respectively.
5. The Secretary’s Initial Decision Letter, dated June 18, 2025, properly contained details clearly advising that Exceptions must be filed within twenty (20) days of the date of the Secretary’s Letter.
6. The twenty (20) day period of time in which to file Exceptions expired on Tuesday, July 8, 2025.
7. On July 18, 2025, Respondents filed untimely Exceptions.
8. On July 28, 2025, I&E filed its Reply Exceptions and Motion to Strike Untimely Filed Exceptions.
9. On September 25, 2025, the Commission issued an Opinion and Order in these consolidated cases, adopting the Initial Decision of Deputy Chief Administrative Law Judge Chiodo and sustaining I&E’s complaint, and striking Respondents’ untimely filed exceptions.
10. Additionally, the Commission’s September 25, 2025, Opinion and Order provided the following:
 - a. 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.

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- b. 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.

Pennsylvania Public Utility Commission, Bureau of Investigation and Enforcement v. Best Taxi LLC and Pennsylvania Public Utility Commission, Bureau of Investigation and Enforcement v. Good Cab LLC, Docket Nos. C-2022-3029070 and C-2022-3029079 (consolidated cases), September 25, 2025, Ordering ¶¶8-9, p. 26.

11. Neither Respondent paid the civil penalty imposed by the September 25, 2025, Order within the timeframe specified by the Commission.

12. Neither Respondent requested a stay of the Commission's September 25, 2025, Order prior to the revocation of their operating authorities.

13. On October 7, 2025, Respondents filed a notice of appeal.

14. On October 28, 2025, Best Taxi's certificate of public convenience at A-2016-2529890 was cancelled for non-compliance with the Commission's September 25, 2025, Order.

15. On October 28, 2025, Good Cab's certificate of public convenience at A-00120846 was cancelled for non-compliance with the Commission's September 25, 2025, Order.

16. On November 8, 2025, both Respondents filed separate Petitions for Reconsideration from Staff Action, requesting that each Respondent's respective certificate of public convenience be reinstated and that the Commission grant a stay of its September 25, 2025, Order *nunc pro tunc*.

II. RESPONDENTS DO NOT MEET THE STANDARD FOR THE GRANTING OF A STAY, AND THEIR REQUEST FOR A STAY SHOULD BE DENIED

17. A party is entitled to stay if:

- a. The petitioner makes a strong showing that he is likely to prevail on the merits;
- b. The petitioner has shown that without the requested relief, he will suffer irreparable injury;
- c. The issuance of a stay will not substantially harm other interested parties in the proceedings; and
- d. The issuance of a stay will not adversely affect the public interest.

18. For a stay pending appellate review, such as the case at bar, Commission and Pennsylvania Supreme Court precedent require that “the petitioner must make a ‘strong showing’ under these criteria to justify the issuance of a stay.” *Michael and Sharon Hartman v. PPL Electric Utilities Corporation*, Docket No. C-2019-3008272 (Order and Opinion entered March 27, 2025) (citing *Pa. Pub. Util. Comm’n. v. Process Gas Consumers Group*, 467 A.2d 805 (Pa. 1983)).

19. In their Petitions, the Respondents provide an outline of their argument, which has already been addressed by the Commission’s September 25 Order, that the Commission’s regulations violate the Pennsylvania constitution.

20. This is not a “strong showing,” and for the reasons put forth by DCALJ Chiodo and the Commission, the Respondents are unlikely to prevail on the merits of their case before the Commonwealth Court.

21. Further, the Respondents claim that they will suffer irreparable injury if the Commission’s September 25, 2025, Order is not stayed.

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22. While it may be true that Respondents will suffer an irreparable injury stemming from the loss of their certificates of public convenience, that is a consequence of their own failure to adhere to the Commission's September 25, 2025, Order.

23. Respondents provided no explanation of how the continued enforcement of the Commission's regulations regarding driver criminal history restrictions will cause them to suffer irreparable injury.

24. Similarly, Respondents have not made a strong showing that the relatively small monetary civil penalty imposed in these consolidated cases will cause them to suffer an irreparable injury.

25. Respondent further argues that the public interest will be served by their continued operation.

26. However, I&E believes that the public interest would be better served by common carriers that are compliant with Commission regulations and Commission orders.

27. Given the posture of the case, if the Commission was to stay its September 25, 2025, Order, I&E would no longer be able to enforce the Commission's regulation at 52 Pa. Code § 29.505(b) for the pendency of this litigation.

28. Thus, a stay would adversely affect I&E, and its ability to enforce the Public Utility Code and the Commission's regulations.

III. RESPONDENTS HAVE NOT CARRIED THEIR BURDEN TO SHOW THAT THE REQUESTED RELIEF IS IN THE PUBLIC INTEREST

29. In addition to their request for a stay, Respondents request reconsideration from staff action, namely the revocation of their authority to operate as common carriers of persons within the Commonwealth.

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30. Section 332(a) of the Code, 66 Pa. C.S. § 332(a), provides that the party seeking affirmative relief from the Commission has the burden of proof. *Borough of Middletown v. Pa. Pub. Util. Comm'n.*, 301 A.3d 965, 974-975 (Pa. Commw. 2023).

31. Respondents must prove their burden by a preponderance of the evidence. *Application of 610 Hauling, LLC, t/a College Hunks Hauling Junk, for the right to begin to transport, as a common carrier, by motor vehicle, household goods in use, from points in the counties of Chester, Delaware, Montgomery, Philadelphia; and Bucks, to points in Pennsylvania*, Docket Nos. A-2012-2334103 and A-8915269 (Opinion and Order entered November 5, 2015) (citing *Se-Ling Hosiery, Inc. v. Margulies*, 70 A.2d 854 (Pa. 1950)).

32. A “preponderance of the evidence means that one party has presented evidence that is more convincing, by even the slightest degree, than the evidence presented by the opposing party.” *610 Hauling, LLC t/a College Hunks Hauling Junk*, A-2012-2334103 and A-8915269 (Opinion and Order entered November 5, 2015).

33. When evaluating an applicant seeking common carrier authority, the Commission will consider a number of factors, including “[a]n applicant's record, if any, of compliance with 66 Pa.C.S. (relating to Public Utility Code), this title and the Commission's orders.” 52 Pa. Code § 41.14(5).

34. Respondents’ Petitions consist of a re-argument of its earlier claim that the Commission’s regulations at 52 Pa. Code § 29.505 are unconstitutional, which the Commission has already addressed in its September 25, 2025, Opinion and Order.

35. Respondents were served with the Commission’s September 25, 2025, Opinion and Order directing them to remit their respective civil penalties within 30 days of the date of the entry of that order, i.e., by October 25, 2025.

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36. Respondents were warned that failure to comply with the Commission's September 25, 2025, Opinion and Order, would result in the suspension or revocation of their respective certificates of public convenience.

37. Notably, Respondents have not paid the outstanding civil penalties imposed by the Commission as of the date of this filing.

38. Respondents have not explained why they have not complied with the Commission's September 25, 2025, Opinion and Order.

39. Therefore, Respondents have not demonstrated by a preponderance of evidence that they are entitled to the relief sought, specifically the return of their authority to operate as a common carrier of persons.

WHEREFORE, for the foregoing reasons, the Petition for Reconsideration from Staff Action filed by Respondent on November 8, 2025, should be DENIED.

Respectfully submitted,



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
(717) 783-5243
grosul@pa.gov

Date: November 18, 2025

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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	:	

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:

Cory A. Leshner, Esq.
Mette, Evans & Woodside
3401 North Front Street
P.O. Box 5950
Harrisburg, PA 17110
caleshner@mette.com
Counsel for 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
(717) 783-5243
grosul@pa.gov

Dated: November 18, 2025

**R.R. 183
BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Bureau of Investigation and Enforcement,	:	
Complainant	:	
	:	
v.	:	Docket No. C-2022-3029070
	:	
Best Taxi LLC,	:	
Respondent	:	

Bureau of Investigation and Enforcement,	:	
Complainant	:	
	:	
v.	:	Docket No. C-2022-3029079
	:	
Good Cab LLC,	:	
Respondent	:	

JOINT STIPULATION OF FACTS

Pursuant to 52 Pa. Code § 5.234, the Pennsylvania Public Utility Commission’s (“Commission”) Bureau of Investigation and Enforcement (“I&E”) and Best Taxi LLC (“Best Taxi”) and Good Cab LLC (“Good Cab”), by their undersigned attorneys, agree and stipulate to the following facts in the above-captioned matter.

PROCEDURAL HISTORY

I&E filed a Formal Complaint against Best Taxi on February 9, 2022, at Docket No. C-2022-3029070. In its Complaint, I&E alleged (1) that Best Taxi violated 52 Pa. Code § 29.505(b)(1)(i)(D) by permitting a driver to act as a taxi driver who should have otherwise been disqualified from acting as a taxi driver due to their criminal background history, and (2) that Best Taxi violated 52 Pa. Code § 29.313(c) by failing to have their drivers maintain log sheets for each shift they operate. I&E requested that the Commission order Best Taxi pay a civil penalty in the amount of \$1,050 for the alleged violations and order such other remedy as the Commission may deem to be appropriate.

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I&E filed a Formal Complaint against Good Cab on February 14, 2022, at Docket No. C-2022-3029079. I&E alleged (1) that Good Cab committed three violations of 52 Pa. Code § 29.505(b)(1) by not conducting a local and National criminal background check on three of its drivers prior to permitting them to act as taxi drivers, (2) that Good Cab violated 52 Pa. Code § 29.505(b)(1)(iii)(B) and 52 Pa. Code § 29.505(b)(1)(i)(D) by permitting a driver to act as a taxi driver who should have otherwise been disqualified from acting as a taxi driver due to their criminal background history, and (3) that Good Cab violated 52 Pa. Code § 29.313(c) by failing to have their drivers maintain log sheets for each shift they operate. I&E requested that the Commission order Good Cab pay a civil penalty in the amount of \$1,800 for the alleged violations and order such other remedy as the Commission may deem to be appropriate.

An evidentiary hearing was held in the Good Cab matter on June 21, 2022. Evidence was produced and admitted into the record at this hearing, including six (6) I&E exhibits.

An evidentiary hearing was held in the Best Taxi matter on July 19, 2022. No evidence was produced for the record at this hearing. During this hearing, the parties agreed to consolidation of the Best Taxi and Good Cab matters.

The Best Taxi and Good Cab matters were consolidated by Order issued on September 23, 2022.

A further prehearing conference was held November 22, 2022. During this conference, the parties agreed to submit a Joint Stipulation of Facts concerning the Best Taxi matter.

STIPULATION OF FACTS

1. Complainant is the Pennsylvania Public Utility Commission's Bureau of Investigation and Enforcement and is the entity established by statute to prosecute complaints against public utilities.
2. Respondent is Best Taxi LLC, a public utility engaged in the transportation of persons for compensation within this Commonwealth, that has a principal place of business at 2304 Walnut Street, Harrisburg, Pennsylvania 17103.
3. On March 24, 2017, the Commission issued Best Taxi LLC a Certificate of Public Convenience for taxi authority at Docket No. A-2016-2529890.
4. Best Taxi LLC is owned by Maher Saber Ahmed.
5. Maher Saber Ahmed has 20 years of experience in the taxicab industry and is the owner of several taxicab companies organized in the central Pennsylvania area.
6. Mr. Ahmed is the primary individual in charge of hiring drivers on behalf of Best Taxi LLC and several other taxicab companies in the central Pennsylvania area.
7. On October 6, 2021, Commission enforcement officers conducted an annual inspection of Best Taxi LLC at the Company's place of business.
8. Best Taxi LLC had two taxicab drivers employed at the time of the October 6, 2021, inspection: Ricky Roberts and Harvell Johnson.
9. During the October 6, 2021, annual inspection of Best Taxi LLC, the enforcement officers inspected the vehicle and driver records maintained by the Company.
10. The Best Taxi LLC taxicab drivers maintained log sheets for some but not all shifts they operated.

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11. Inspection of the driver records maintained by Best Taxi LLC during the October 6, 2021, annual inspection included review of the criminal background histories maintained by the Company of its drivers.

12. Best Taxi LLC's records included the required criminal background histories for all drivers.

13. Review of the criminal background histories of Best Taxi LLC's taxicab drivers revealed that driver Harvell Johnson, date of birth March 16, 1967, was convicted of a felony violation of The Controlled Substance, Drug, Device, and Cosmetic Act (35 P.S. §§ 780-101--780-144)¹ on August 11, 2015, in the Dauphin County Court of Common Pleas.

14. Best Taxi LLC, via its owner Mr. Ahmed, was aware of Harvell Johnson's criminal conviction prior to his hire.

15. Mr. Ahmed interviewed Harvell Johnson prior to his hire and, based upon Mr. Ahmed's experience in the industry, determined that Harvell Johnson's prior felony conviction would not prevent him from performing the duties required of a taxi driver.

16. Mr. Ahmed, using his experience and judgment, determined that Harvell Johnson's criminal history was not relevant to the position of taxi driver and thus should not disqualify him from the position.

17. Despite the felony conviction, Mr. Ahmed decided to hire Harvell Johnson as a taxi driver for Best Taxi LLC.

¹ Specifically, Harvell Johnson was convicted of the following act: (30) Except as authorized by this act, the manufacture, delivery, or possession with intent to manufacture or deliver, a controlled substance by a person not registered under this act, or a practitioner not registered or licensed by the appropriate State board, or knowingly creating, delivering or possessing with intent to deliver, a counterfeit controlled substance. 35 P.S. § 780-113(a)(30).

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18. The Commission's Bureau of Investigation and Enforcement filed a Formal Complaint against Best Taxi LLC, served on February 9, 2022, alleging that Best Taxi violated 52 Pa. Code § 29.505(b)(1)(i)(D) by permitting a driver to act as a taxi driver who should have otherwise been disqualified from acting as a taxi driver due to their criminal background history, and that Best Taxi violated 52 Pa. Code § 29.313(c) by failing to have their drivers maintain log sheets for each shift they operate.

19. The Commission's Bureau of Investigation and Enforcement's formal complaint does not allege any violations by or attributable to Harvell Johnson other than he was acting as a taxi driver where he should have been disqualified from doing so due to his criminal history pursuant to 52 Pa. Code § 29.505(b)(1)(i)(D).

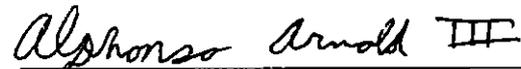
20. For relief, I&E requested in the February 9, 2022, Complaint that the Commission order Best Taxi pay a civil penalty in the amount of \$1,050 for the alleged violations and order such other remedy as the Commission may deem to be appropriate.

**R.R. 188
BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Bureau of Investigation and Enforcement,	:	
Complainant	:	
	:	
v.	:	Docket No. C-2022-3029070
	:	
Best Taxi LLC,	:	
Respondent	:	
	:	
Bureau of Investigation and Enforcement,	:	
Complainant	:	
	:	
v.	:	Docket No. C-2022-3029079
	:	
Good Cab LLC,	:	
Respondent	:	

AGREEMENT

On behalf of the Bureau of the Investigation and Enforcement of the Pennsylvania Public Utility Commission, the undersigned Prosecutor, Alphonso Arnold III, agrees to the Joint Stipulation of Facts as set forth in the pages that are attached hereto.



Alphonso Arnold III
Prosecutor
PA Attorney ID No. 318487

Pennsylvania Public Utility Commission
Bureau of Investigation and Enforcement
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120
(717) 787-3836
alphonarno@pa.gov

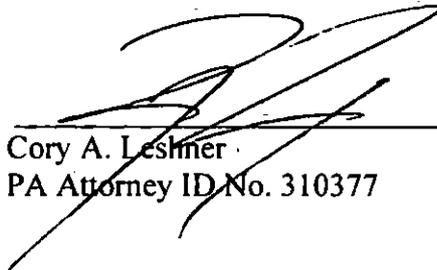
Dated: January 6, 2023

R.R. 189
BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Bureau of Investigation and Enforcement, Complainant	:	
	:	
v.	:	Docket No. C-2022-3029070
	:	
Best Taxi LLC, Respondent	:	
	:	
Bureau of Investigation and Enforcement, Complainant	:	
	:	
v.	:	Docket No. C-2022-3029079
	:	
Good Cab LLC, Respondent	:	
	:	

AGREEMENT

On behalf of Best Taxi LLC, and Good Cab LLC, Cory A. Leshner, Esquire, agrees to the Joint Stipulation of Facts as set forth in the pages that are attached hereto.


Cory A. Leshner
PA Attorney ID No. 310377

Law Offices of Cory A. Leshner LLC
100 N. 10th Street
3rd Floor
Harrisburg, PA 17104
717.909.9999
cal@coryleshner.com

Dated: January 6, 2023

R.R. 190
BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Bureau of Investigation and Enforcement, :
Complainant :
v. : Docket No. C-2022-3029070
Best Taxi LLC, :
Respondent :

Bureau of Investigation and Enforcement, :
Complainant :
v. : Docket No. C-2022-3029079
Good Cab LLC, :
Respondent :

CERTIFICATE OF SERVICE

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

Served via Electronic Mail
Law Offices of Cory A. Leshner LLC
100 N. 10th Street
3rd Floor
Harrisburg, PA 17104
717.909.9999
cal@coryleshner.com


Alphonso Arnold III
Prosecutor
PA Attorney ID No. 318487
(717) 787-3836
alphonarno@pa.gov

Dated: January 9, 2023

**R.R. 191
BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission,	:	
Bureau of Investigation and Enforcement,	:	
Complainant	:	
	:	
v.	:	Docket Nos. C-2022-3029079
	:	C-2022-3029070
Good Cab, LLC,	:	
Respondent	:	
	:	Consolidated Cases
	:	
Pennsylvania Public Utility Commission,	:	
Bureau of Investigation and Enforcement,	:	
Complainant	:	
	:	
v.	:	
	:	
Best Taxi, LLC,	:	
Respondent	:	

**BUREAU OF INVESTIGATION AND ENFORCEMENT
AND GOOD CAB, LLC'S
JOINT STIPULATION OF FACTS**

Pursuant to the direction of the Honorable Dennis Buckley, Administrative Law Judge, the Pennsylvania Public Utility Commission's ("Commission") Bureau of Investigation and Enforcement ("I&E" or "Complainant") and Good Cab, LLC ("Good Cab," "Company," or "Respondent") hereby submit this Joint Stipulation of Facts, and state that the agreed-upon facts of the case are as follows:

1. Complainant is the Pennsylvania Public Utility Commission's Bureau of Investigation and Enforcement and is the entity established by statute to prosecute complaints against public utilities.

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2. Respondent is Good Cab, LLC, a public utility engaged in the transportation of persons for compensation within this Commonwealth, that has a principal place of business at 2304 Walnut Street, Harrisburg, Pennsylvania 17103.
3. On June 22, 2005, the Commission issued a Certificate of Public Convenience to Good Cab for taxi service at A-00120846.
4. Good Cab is owned by Maher Saber Ahmed.
5. Maher Saber Ahmed has 20 years of experience in the taxicab industry and is the owner of several taxicab companies organized in the central Pennsylvania area.
6. Mr. Ahmed is the primary individual in charge of hiring drivers on behalf of Good Cab and several other taxicab companies in the central Pennsylvania area.
7. On October 7, 2021, PUC Enforcement Officers Travis Griffith, Barry Pacovsky, and Elliot Miller conducted an inspection of the vehicle and driver records of Good Cab.
8. On February 11, 2022, based upon the Enforcement Officers' inspection of the records, the Motor Carrier Division filed a Complaint alleging that Good Cab had failed to review the criminal histories of three drivers prior to allowing them to operate company vehicles and that Good Cab had allowed one driver to operate a taxicab even though, due to his criminal history, he was neither qualified nor suitable to provide safe transportation.

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9. On June 21, 2022, an evidentiary hearing was held before the Honorable Gail M. Chiodo, Administrative Law Judge, in the Good Cab case wherein evidence was produced and admitted into the record, including six (6) I&E exhibits.

10. Included as an exhibit was the criminal record of Brian Hickman (“Hickman”). Hickman was convicted in 2006 of robbery, a felony of the first degree, and was convicted in 2017 of possession with intent to manufacture or deliver a controlled substance.

11. Good Cab, via its owner, Mr. Ahmed, was aware of Hickman’s criminal conviction prior to his hire.

12. Mr. Ahmed interviewed Hickman prior to his hire and, based upon Mr. Ahmed’s experience in the industry, determined that Hickman’s prior felony convictions would not prevent him from performing the duties required of a taxi driver.

13. Mr. Ahmed, using his experience and judgment, determined that Hickman’s criminal history was not relevant to the position of taxi driver and thus should not disqualify him from the position.

14. Despite the felony convictions, Mr. Ahmed decided to hire Hickman as a taxi driver for Good Cab.

15. The record established at the June 21, 2022, evidentiary hearing in the Good Cab matter is hereby incorporated into this Joint Stipulation of Facts, and this Joint Stipulation of Facts is intended to be consistent with the record.

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WHEREFORE, the Pennsylvania Public Utility Commission's Bureau of Investigation and Enforcement and Good Cab, LLC respectfully request that the Commission approve this Joint Stipulation of Facts.

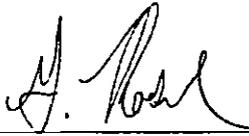
Respectfully Submitted,

**Pennsylvania Public Utility Commission;
Bureau of Investigation and Enforcement**

Good Cab, LLC

By:

By:



/s/Cory A. Leshner

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
grosul@pa.gov

Cory A. Leshner
Law Offices of Cory A. Leshner
100 N. 10th Street, 3rd Fl.
Harrisburg, PA 17101
cal@coryleshner.com
Counsel for Good Cab, LLC

Date: November 15, 2024

Date: November 15, 2024

**R.R. 195
BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMPANY**

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

Cory A. Leshner, Esq.
Law Offices of Cory A. Leshner, LLC
100 N. 10th St.
Harrisburg, PA 17101
cal@coryleshner.com



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: November 15, 2024

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

Public Meeting held January 15, 2026

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-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 petitions filed in these consolidated proceedings, including: (1) the "PETITION FOR RECONSIDERATION FROM STAFF ACTION

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AND FOR *NUNC PRO TUNC* ISSUANCE OF A STAY OF COMMISSION ORDER DATED SEPTEMBER 25, 2025,” filed by Best Taxi LLC (Best Taxi) on November 10, 2025; and, (2) the “PETITION FOR RECONSIDERATION FROM STAFF ACTION AND FOR *NUNC PRO TUNC* ISSUANCE OF A STAY OF COMMISSION ORDER DATED SEPTEMBER 25, 2025” (collectively, the Petitions), filed by Good Cab LLC (Good Cab) (collectively, the Companies or the Petitioners) on November 10, 2025, in the above-captioned proceeding.¹ In their Petitions, the Companies request that the Commission: (1) reconsider the Secretarial Letter issued on October 28, 2025 (*October 2025 Secretarial Letter*), wherein the Commission, *inter alia*, conditionally cancelled the Certificates of Public Convenience (Certificates) held by Best Taxi² and Good Cab unless the Companies paid the specified fines within 30 days;³ and, (2) grant, *nunc pro tunc*, a stay of the Opinion and Order of the Commission entered September 25, 2025 (*September 2025 Order*), cancelling the Certificates of Best Taxi and Good Cab for failure of the Companies to pay the specified fines within 30 days of the *October 2025 Secretarial Letter*. Petitions at 1. On November 18, 2025, the

¹ According to the Pennsylvania Department of State, the Petitioners’ registered legal names are “Best Taxi LLC” and “Good Cab LLC,” respectively.

² We note that at Docket Nos. A-2016-2529890 and A-6318529, the Commission issued a Certificate to “Best Taxi, LLC” evidencing the Commission’s approval for Best Taxi to operate, as a common carrier, by motor vehicle, persons upon call or demand, in the counties of Dauphin and Cumberland, effective March 24, 2017.

³ We note that at Docket No. A-00120846, by Order entered March 24, 2005, the Commission, *inter alia*, granted the Application of Hesham A. Mekled, for the right to begin to transport, as a common carrier, by motor vehicle, persons upon call or demand, in the counties of Dauphin and Cumberland. Subsequently, the Commission issued a Certificate to “Hesham A. Mekled” evidencing the Commission’s approval to operate, effective June 22, 2005. We further note that by Secretarial Letter issued November 17, 2011, the Commission: (1) granted the request for change of entity for the carrier “Hesham A. Mekled d/b/a Harrisburg Taxi to Good Cab, LLC;” and, (2) advised that the Certificate would be changed to stand in the name of “Good Cab, LLC.” Consequently, on February 24, 2012, the Commission issued an updated Certificate to “Good Cab, LLC.”

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Commission's Bureau of Investigation and Enforcement (I&E) filed an Answer to the Petitions (Answer).

For the reasons stated below, we shall deny the Petitions, consistent with this Opinion and Order.

I. History of the Proceeding⁴

On February 9, 2022, I&E filed a Formal Complaint against Best Taxi (Best Taxi Complaint). The prosecution against Best Taxi was docketed at Docket No. C-2022-3029070 (Best Taxi Proceeding). In the Best Taxi Complaint, I&E alleged 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).

I&E sought a fine of \$1,000 for the first offense, and a fine of \$50 for the second offense. These proposed fines totaled \$1,050. [$\$1,000 + \$50 = \$1,050$].

I.D. at 2.

On February 14, 2022, I&E filed a Formal Complaint against Good Cab (Good Cab Complaint). The prosecution against Good Cab was docketed at Docket No.

⁴ See *September 2025 Order* at 2-5 for a comprehensive summary describing the procedural history of this proceeding, which is incorporated herein by reference.

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C-2022-3029079 (Good Cab Proceeding). In the Good Cab Complaint, I&E alleged 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.

[($\$250 \times 3$) + \$1,000 + \$50 = \$1,800]. I.D. at 2-3.

On March 4, 2022, the Companies filed Answers to the respective Complaints, wherein the Companies, *inter alia*, denied the material allegations in their respective Complaints. I.D. at 3.

On June 21, 2022, a hearing was held in the Good Cab Proceeding. On July 19, 2022, the hearing was convened in the Best Taxi Proceeding.⁵ I.D. at 3, 5.

⁵ In support, counsel for the Companies stated that he represented both Good Cab and Best Taxi, and that both Companies are owned by the same individual, Mr. Maher Saber Ahmed. I.D. at 5.

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By Order dated September 23, 2022, both proceedings were formally consolidated for adjudication and resolution. I.D. at 6.

On January 9, 2023, the Parties filed a Joint Stipulation of Facts in the Best Taxi Proceeding. On September 22, 2023, I&E and the Companies 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. I.D. at 6.

By Initial Decision issued on June 18, 2025,⁶ Deputy Chief Administrative Law Judge (ALJ) Gail M. Chiodo, *inter alia*: (1) denied the Companies' constitutional challenge to Section 29.505(b)(1) of the Commission's Regulations; (2) sustained the Complaints brought by I&E; and (3) imposed the civil fines requested by I&E on the Companies, consistent with the Commission's Regulations for the violations at issue.⁷ On July 18, 2025, the Companies filed Exceptions. On July 28, 2025, I&E filed Reply Exceptions. Also, on July 28, 2025, I&E filed a Motion to Strike the Untimely Filed Exceptions of the Companies (Motion).⁸ *September 2025 Order* at 5.

As noted, *supra*, on September 25, 2025, the Commission entered the *September 2025 Order*, wherein the Commission, *inter alia*: (1) granted I&E's Motion; (2) struck the Companies' Exceptions; (3) adopted the ALJ's Initial Decision, without

⁶ The Commission's Secretary's Bureau issued the Initial Decision by Secretarial Letter dated June 18, 2025 (*June 2025 Secretarial Letter*). The *June 2025 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).

⁷ See *September 2025 Order* at 25-31 for a comprehensive summary describing the ALJ's findings in the Initial Decision, which are incorporated herein by reference.

⁸ 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. No Answer to the Motion was filed.

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modification; (4) ordered that Best Taxi and Good Cab shall remit civil penalties of \$1,050 and \$1,800, respectively, within thirty (30) days of the entry date of the *September 2025 Order* (i.e., on or before October 27, 2025);⁹ and (5) ordered that if the Companies' respective civil penalties were not received by the Commission within thirty (30) days after entry of the *September 2025 Order*, then: (a) the Commission's Bureau of Technical Utility Services (TUS) shall suspend or revoke Best Taxi's Certificate and Good Cab's Certificate; and, (b) the Commission's Bureau of Administrative Services, Assessment Section, shall refer this matter to the Pennsylvania Office of Attorney General for collection of the outstanding totals and appropriate action. *September 2025 Order* at 24-26.

On October 7, 2025, the Companies filed a Notice of Appeal to the Commonwealth Court of Pennsylvania.

As noted, *supra*, on October 28, 2025, the Commission issued the *October 2025 Secretarial Letter*, wherein it notified the Companies that: (1) the *September 2025 Order* directed Best Taxi and Good Cab to pay civil penalties within thirty (30) days of the entry of the *September 2025 Order*; and, (2) to date, Best Taxi and Good Cab had not paid their respective civil penalty amounts in full and, therefore, Best Taxi's Certificate and Good Cab's Certificate have been cancelled. *See October 2025 Secretarial Letter* at 1. Further, the *October 2025 Secretarial Letter* stated that the Commission will request that the Pennsylvania Department of Transportation put an administrative hold on the Companies' vehicle registrations, and Best Taxi and Good Cab will not be able to register any new vehicles or renew any existing vehicle registrations

⁹ The Commission entered the *September 2025 Order* on September 25, 2025, requiring compliance with the directives within thirty (30) days of the entry date of the *September 2025 Order* (i.e., on or before October 25, 2025). *See September 2025 Order* at 25-26, Ordering Paragraph Nos. 6-9. However, October 25, 2025, was a Saturday. Therefore, remittance of the civil penalty amounts in full was due on or before Monday, October 27, 2025.

until: (1) all past due assessments are paid; (2) all past due fines are paid; (3) all insurance filings are up to date; and (4) the Companies hold an active Certificate issued by the Commission. Moreover, the *October 2025 Secretarial Letter* indicated service to the Pennsylvania Department of Revenue, Bureau of Audit Programs, Sales and Use Taxes. Furthermore, the *October 2025 Secretarial Letter* notified the Companies: (1) that they are to cease and desist from further violations of the Code and the Commission's Regulations; and, (2) that they are prohibited from rendering service as a common carrier by motor vehicle in intrastate commerce in the Commonwealth of Pennsylvania. *Id* at 1-2.

As discussed, *supra*, Best Taxi and Good Cab filed their respective Petitions on November 10, 2025. On November 18, 2025, I&E filed its Answer.

II. Discussion

A. Legal Standards

1. Petitions for Rehearing, Reconsideration, Rescission, and Amendment of Commission Orders

With respect to petitions for rehearing, reconsideration, rescission, and amendment of Commission orders, the Public Utility Code (Code) establishes a party's right to seek relief within fifteen days following the service of a Commission order pursuant to Subsection 703(f). 66 Pa.C.S. § 703(f) (relating to rehearing).¹⁰ Upon the filing of a petition for relief pursuant to Section 703(f), the Commission may affirm,

¹⁰ Petitions under this section which do not allege new evidence are typically treated as petitions for reconsideration. Petitions for rehearing pursuant to Section 703(f) of the Code typically include an allegation of new evidence. 66 Pa.C.S. § 703(f); see *West Penn Power Co. v. Pa. PUC*, 659 A.2d 1055, 1056 (Pa. Cmwlth. 1995) (*West Penn Power*).

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rescind, or modify its original order. *Id.* The Code further provides that the Commission may, at any time, after notice and opportunity to be heard by all affected parties, rescind or amend any order made by the Commission, pursuant to Section 703(g). 66 Pa.C.S. § 703(g) (relating to rescission and amendment of orders). A request for relief pursuant to § 703(f) or § 703(g) must be brought as a petition for relief consistent with Section 5.572 of the Commission's Regulations. 52 Pa. Code § 5.572 (relating to petitions for relief).

Petitions for relief predicated upon Sections 703(f) and 703(g) of the Code, whether brought under Section 5.572(c) of Commission Regulations as a petition for reconsideration, rehearing, reargument, clarification, supersedeas, or others within fifteen days of the service of a Commission order, or under Section 5.572(d) as a petition for rescission or amendment filed at any time following service of a Commission order, are reviewed by the Commission under the same standard.

In exercising Commission authority to amend or rescind an order pursuant to Section 703(g) of the Code, the Supreme Court of Pennsylvania has stated: "Because such relief may result in disturbance of final orders, it must be granted judiciously and only under appropriate circumstances." *See, City of Pittsburgh v. Pennsylvania Department of Transportation*, 490 Pa. 264, 416 A.2d 461 (1980); *see also West Penn Power; see also Richard Feleccia v. PPL Electric Utilities Corporation, d/b/a PPL Utilities and Barbara A. Lima*, Docket No. C-20016210 (Opinion and Order entered March 7, 2003) (*Feleccia*).

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The Commission's application of the standard for granting a petition for amendment, reconsideration, or rescission is set forth in *Philip Duick et al. v. Pennsylvania Gas and Water Company*, 56 Pa. PUC 553, 559 (1982) (*Duick*) as follows:

A petition for reconsideration, under the provisions of 66 Pa. C.S. § 703(g), may properly raise any matters designed to convince the Commission that it should exercise its discretion under this code section to rescind or amend a prior order in whole or in part on the grounds that the decision or ruling of the Commission on a matter or issue was either unwise or in error.

In this regard we agree with the Court in the *Pennsylvania Railroad Company* case, wherein the Court said,

[b]ut the grounds for reconsideration should be restricted to the new matters and new or changed conditions set up in the joint petition, which had arisen since and were not presented in the several petitions of these appellants ... and dismissed by the Commission ... and not appealed from. Parties, ..., cannot be permitted, by a second motion to review and reconsider, to raise the same questions which were specifically considered and decided against them and not appealed from.

Pennsylvania Railroad Co. v. Public Service Commission, 118 Pa. Super. 380 (1935).

What we expect to see raised in such petitions are new and novel arguments, not previously heard, or considerations which appear to have been overlooked or not addressed by the Commission. Absent such matters being presented, we consider it unlikely that a party will succeed in persuading us that our initial decision on a matter or issue was either unwise or in error.

Duick at 559; see also *AT&T v. Pa. PUC*, 568 A.2d 1362 (Pa. Cmwlth. 1990). With respect to petitions for rescission, specifically, we have stated that in order “[t]o establish

a proper basis for rescission, a petitioner must first establish the existence of newly discovered evidence, a substantial change in circumstances, or an error of fact or law.” *Feleccia*, slip op. at 3 (citing *Duick* at 559).

A Commission decision to deny a petition for rescission or amendment is a matter squarely within its discretion, subject to being overturned only where a reviewing court finds “the agency’s decision demonstrates evidence of bad faith, fraud, capricious action or abuse of power.” *West Penn Power*, 659 A.2d at 1065.

The Commission has the additional discretion to “grant and prescribe such additional time as, in its judgment, is reasonably necessary to comply with the order, and may, on application and for good cause shown, extend the time for compliance fixed in its order.” 66 Pa.C.S. § 703(e).

2. Petitions for Stay

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.

It is well-settled that the propriety of issuing a stay or supersedeas will be governed by the standards outlined in *Pa. PUC v. Process Gas Consumers Group*,

R.R. 206

467 A.2d 805 (1983) (*Process Gas*).¹¹ Pursuant to the standards of *Process Gas*, for issuance of a stay and/or supersedeas, a petitioner must establish the following:

1. Make a strong showing of likelihood to prevail on the merits;
2. Show that denial of relief will cause irreparable injury;
3. Show that the issuance of a stay will not substantially harm other interested parties in the proceedings; and
4. Show that the issuance of a stay will not adversely affect the public interest.

Process Gas, 467 A.2d at 808-09. The Supreme Court further clarified in *Process Gas*: “[I]t is essential that the unsuccessful party, who seeks a stay of a final order pending appellate review, make a strong showing under the[se] criteria in order to justify the issuance of a stay.” *Id.*

¹¹ Similarly, 52 Pa. Code § 3.2, outlining the requirements for emergency orders seeking injunctive relief, includes that the Petitioner establish the need to preclude an immediate, irreparable injury that is not against the public interest. Here, the Complainant’s request to preserve status quo will be examined under the *Process Gas* standard.

B. The September 2025 Order¹²

As discussed, *supra*, in the *September 2025 Order*, we, *inter alia*: (1) granted I&E's Motion; (2) struck the Companies' Exceptions;¹³ (3) adopted the ALJ's Initial Decision, without modification; (4) ordered Best Taxi and Good Cab to remit civil penalties of \$1,050 and \$1,800, respectively, within thirty days of the entry of the *September 2025 Order* (*i.e.*, on or before October 27, 2025);¹⁴ and, (5) ordered that if payments totaling \$1,050 and \$1,800, respectively, were not received by the Commission within thirty days of entry of the *September 2025 Order*, then the Commission would suspend or revoke Best Taxi's Certificate and Good Cab's Certificate. In pertinent part, we agreed with ALJ Chiodo's reasoning and determination that the Companies lacked standing to assert a facial constitutional challenge to the Criminal History Regulation. We also agreed 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. *September 2025*

¹² See *September 2025 Order* at 21-24 for a comprehensive analysis and description of our disposition of the Companies' Exceptions to the ALJ's Initial Decision and I&E's Motion, which are incorporated herein by reference.

¹³ As a preliminary matter, we addressed I&E's Motion, wherein it requested the striking of the Exceptions as being untimely filed. As noted, *supra*, the *June 2025 Secretarial Letter* advised the Parties that any Exceptions to the Initial Decision must be filed within 20 days of the date of the letter (*i.e.*, on or before July 8, 2025). On July 18, 2025, ten days after the due date, counsel for the Companies filed Exceptions. We agreed with I&E's assertion that the Companies provided no explanation – let alone any good cause reason – for the failure to timely comply with the *June 2025 Secretarial Letter* and our procedural Regulations. Accordingly, we granted I&E's request to strike the Exceptions. *September 2025 Order* at 21-22.

¹⁴ The Commission entered the *September 2025 Order* on September 25, 2025, requiring compliance with the directives within thirty days of the entry date of the *September 2025 Order* (*i.e.*, on or before October 25, 2025). See *September 2025 Order* at 25-26, Ordering Paragraph Nos. 6-9. We note that October 25, 2025, was a Saturday. Therefore, remittance of the civil penalty amounts in full was due on or before Monday, October 27, 2025.

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Order at 22-23 (citing *I.D.* at 26-27; *Singleton*, 428 U.S. at 114-17 and *Temer*, 543 U.S. at 129; *Mid-Atlantic Power Supply Ass'n v. Pa. PUC*, 746 A.2d 1196, 1200 (Pa. Cmwlth. 2000)).

Accordingly, we adopted the ALJ's Initial Decision, which sustained I&E's Complaints against the Companies. Thus, we directed that within thirty days of entry date of this Opinion and Order: (1) Best Taxi shall remit a civil penalty in the amount of \$1,050; and, (2) Good Cab shall remit a civil penalty in the amount of \$1,800. *September 2025 Order* at 23-24.

C. The Petitions

In their Petitions, Best Taxi and Good Cab note that they: (1) timely filed their Notice of Appeal with the Commonwealth Court "to preserve further review of the issues that had been subject to litigation before the Commission since 2022;"¹⁵ (2) did not file a request to stay the *September 2025 Order*; and (3) received the *October 2025 Secretarial Letter* on October 28, 2025.¹⁶ Petitions at ¶¶ 10-13. Further, the Companies note that the Commission's primary justification regarding the lack of standing for Best Taxi and Good Cab was that Mr. Ahmed, the owner of both Best Taxi and Good Cab, was not prevented from pursuing ownership and operation due to the challenged regulation. Moreover, the Companies argue that Mr. Ahmed can no longer operate Best Taxi and Good Cab because their Certificates were cancelled. Accordingly, Best Taxi and Good Cab request that the Commission: (1) "rescind" the *October 2025 Secretarial*

¹⁵ As noted, *supra*, on October 7, 2025, the Companies filed their Notice of Appeal with the Commission.

¹⁶ As noted, *supra*, the *October 2025 Secretarial Letter* was served on Best Taxi and Good Cab on October 28, 2025.

Letter; and, (2) grant a stay of the *September 2025 Order*, pending the outcome of the appeal.¹⁷ *Id.* at ¶¶ 14-17.

Best Taxi and Good Cab also note that the Commission has previously indicated that granting a stay is warranted if the petitioner makes a strong showing that: (1) it is likely to prevail on the merits; (2) it will suffer irreparable injury without the requested relief; and, (3) the issuance of a stay will not: (a) substantially harm other interested parties; and, (b) adversely affect the public interest. Petitions at ¶ 18 (citing *Pa. PUC v. Vacation Charters, Ltd.*, 70 Pa. P.U.C. 439 (August 17, 1989)). According to the Companies, if the stay is not granted, then Best Taxi and Good Cab will suffer irreparable harm because their Certificates were cancelled. Further, the Companies assert that without a stay of the *September 2025 Order* and reinstatement of their Certificates, Best Taxi and Good Cab will not be able to operate during the pendency of the appeal. Moreover, the Companies aver that a stay for an appeal will not harm the Parties or the public because the instant matter has been pending and subject to litigation since 2022, and further delay to permit an appeal will not harm Best Taxi, Good Cab, or the Commission. Furthermore, the Companies opine that a stay will benefit the public by permitting Best Taxi and Good Cab to continue operations “while the Court’s [sic] make a determination of this issue of great importance.” *Id.* at ¶¶ 19-21.

Best Taxi and Good Cab contend that they can succeed on the merits because they brought a facial challenge to the regulation at issue. The Companies note that in the *September 2025 Order*: (1) the ALJ and the Commission acknowledged that the carrier likely has standing to pursue an “as applied challenge;” and, (2) the Commission held that the ALJ’s determination on standing was accurate because the

¹⁷ We note that in the introduction of their Petitions, Best Taxi and Good Cab request reconsideration of the *October 2025 Secretarial Letter*. See Petitions at 1. However, in the discussion of their Petitions, the Companies also request that the Commission “rescind” the *October 2025 Secretarial Letter*. See Petitions at ¶ 17.

application of the regulation did not prevent Best Taxi and Good Cab from operating as certificated carriers. Petitions at ¶¶ 22-24, n.1. However, the Companies submit that the Commission's cancellation of their Certificates and enforcement of the regulation challenged by the Companies: (1) resulted in Best Taxi and Good Cab suffering from an inability to operate as certificated carriers; and (2) provided Best Taxi and Good Cab standing to challenge the regulation in the first place. Moreover, the Companies note that a party has standing to sue if the party has a substantial, direct, and immediate interest in the subject matter of the litigation. *Id.* at ¶¶ 25-27 (citing *Wm. Penn Parking Garage, Inc. v. City of Pittsburgh*, 346 A.2d 269, 280 (Pa. 1975); *S. Whitehall Twp. Police Serv. v. S. Whitehall Twp.*, 555 A.2d 793, 795 (Pa. 1989)). Accordingly, the Companies aver that given this change in circumstances, Best Taxi and Good Cab: (1) made a strong showing that they possess the requisite standing to challenge the regulation at issue; and (2) will likely succeed on the merits if the standing issue is resolved in their favor. *Id.* at ¶¶ 28-29.

The Companies renew their argument that 52 Pa. Code § 29.505(b) is facially unconstitutional. Specifically, the Companies continue to challenge the Commission's Criminal History Regulation, which requires that call and demand carriers, such as Best Taxi and Good Cab, must disqualify driver applicants convicted of certain crimes within specified time frames. Petitions at ¶¶ 30-33. Further, the Companies remain of the opinion that 52 Pa. Code § 29.505(b), *inter alia*: (1) infringes upon an individual's right to pursue the occupation of taxi driver, and subjects a certificated carrier to punishment if it were to hire such individuals; and (2) provides a carrier no limitation or discretion to determine if the proposed driver's prior conviction relates to the driver's ability to provide call or demand service to the public in a safe manner. Moreover, the Companies argue that as "the scenario" has played out, the ability of Best Taxi and Good Cab to operate as a call or demand carrier is direct. *Id.* at ¶¶ 34-35. Accordingly, Best Taxi and Good Cab submit that they meet all of the criteria for the Commission to stay the *September 2025 Order*. *Id.* at ¶ 36.

C. I&E's Answer

In its Answer, I&E opposes the Companies' request for a stay of the *September 2025 Order*, arguing that the Companies have not met: (1) the standard for the granting of a stay; and (2) their burden to demonstrate that they are entitled relief. Answer at 1.

I&E notes that a party is entitled to a stay if: (1) the petitioner makes a strong showing that it is likely to prevail on the merits; (2) the petitioner has shown that without the requested relief, it will suffer irreparable injury; (3) the issuance of a stay will not substantially harm other interested parties in the proceedings; and, (4) the issuance of a stay will not adversely affect the public interest. Further, I&E notes that for a stay pending appellate review, such as the instant case, the Commission and the Pennsylvania Supreme Court precedent requires that the petitioner make a strong showing under these criteria to justify the issuance of a stay. Answer at 5 (citing *Michael and Sharon Hartman v. PPL Electric Utilities Corporation*, Docket No. C-2019-3008272 (Opinion and Order entered March 27, 2025)). Moreover, I&E notes that the Companies' argument that the Commission's Regulations violate the Pennsylvania constitution: (1) was already addressed by the Commission in the *September 2025 Order*; (2) does not constitute a "strong showing;" and (3) is unlikely to prevail on the merits of their case before the Commonwealth Court for the same reasons put forth by the ALJ and the Commission. *Id.* at 5.

I&E also disputes the Companies' claim that Best Taxi and Good Cab will suffer irreparable injury if the Commission does not stay the *September 2025 Order*. Answer at 5-6. Specifically, I&E argues that the Companies: (1) provided no explanation of how the continued enforcement of the Commission's Regulations regarding driver criminal history restrictions will cause them to suffer irreparable injury; and (2) failed to make a strong showing that the relatively small civil penalty imposed in

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the consolidated cases will cause Good Cab and Best Taxi to suffer an irreparable injury. Further, I&E also argues that contrary to the Companies' argument that the public interest will be served by their continued operation, the public interest would be better served by common carriers that are compliant with the Commission's Regulations and Commission orders. Moreover, I&E contends that a stay would adversely affect I&E and its ability to enforce the Code and the Commission's Regulations. Specifically, I&E argues that if the Commission were to stay the *September 2025 Order*, then I&E would no longer be able to enforce the Commission's Regulation at 52 Pa. Code § 29.505(b) for the pendency of this litigation. *Id.* at 6.

I&E also challenges the Companies' request for reconsideration of the revocation of their authority to operate as common carriers of persons. In this regard, I&E notes that: (1) Section 332(a) of the Code, 66 Pa.C.S. § 332(a), provides that the party seeking affirmative relief from the Commission has the burden of proof; and, (2) respondents must prove their burden by a preponderance of the evidence, which "means that one party has presented evidence that is more convincing, by even the slightest degree, than the evidence presented by the opposing party." Answer at 6-7 (citing *Borough of Middletown v. Pa. PUC*, 301 A.3d 965, 974-975 (Pa. Cmwlth. 2023); *Application of 610 Hauling, LLC, t/a College Hunks Hauling Junk, for the right to begin to transport, as a common carrier, by motor vehicle, household goods in use, from points in the counties of Chester, Delaware, Montgomery, Philadelphia, and Bucks, to points in Pennsylvania*, Docket Nos. A-2012-2334103 and A-8915269 (Opinion and Order entered November 5, 2015) (*610 Hauling*) (citing *Se-Ling Hosiery, Inc. v. Margulies*, 70 A.2d 854 (Pa. 1950) (*Se-Ling Hosiery*)). Further, I&E notes that when evaluating an applicant seeking common carrier authority, the Commission will consider several factors, including "[a]n applicant's record, if any, of compliance with 66 Pa.C.S. (relating to [the] Code), this title and the Commission's orders." *Id.* at 7 (citing 52 Pa. Code § 41.14(5)).

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I&E also notes that the Companies were: (1) directed to remit their respective civil penalties within thirty days of the date of entry of the *September 2025 Order*; and, (2) warned that failure to comply with the *September 2025 Order* would result in the suspension or revocation of their respective Certificates. I&E continues that to date, the Companies have neither paid the outstanding civil penalties imposed by the Commission, nor explained why they have not complied with the *September 2025 Order*. Accordingly, I&E posits that Good Cab and Best Taxi have failed to demonstrate, by a preponderance of the evidence, that they are entitled to the relief sought (*i.e.*, the return of their respective authority to operate as a common carrier of persons). Thus, I&E submits that the Petitions should be denied. Answer at 7-8.

E. Disposition

In considering the instant Petitions, we note that we are not required to consider, expressly or at length, each and every contention raised by a party to our proceedings. *University of Pennsylvania v. Pa. PUC*, 485 A.2d 1217 (Pa. Cmwlth. 1984). Any argument that is not specifically addressed herein shall be deemed to have been duly considered and denied without further discussion.

Based on our review of the Petitions and the associated record documents, we shall deny the instant Petitions.

First, we shall deny the Petitioners' request that the Commission reconsider or "rescind" the *October 2025 Secretarial Letter*.¹⁸ As previously noted, the *October 2025 Secretarial Letter* stated that the Commission cancelled Best Taxi's

¹⁸ As noted, *supra*, in the introduction of their Petitions, Best Taxi and Good Cab request reconsideration of the *October 2025 Secretarial Letter*. See *Petitions* at 1. However, in the discussion of their Petitions, the Companies also request that the Commission "rescind" the *October 2025 Secretarial Letter*. See *Petitions* at ¶17.

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Certificate and Good Cab's Certificate because to date, neither Company had paid their respective civil penalty amounts in full, more than thirty (30) days after the entry of the *September 2025 Order*. See *October 2025 Secretarial Letter* at 1.

Although the Petitioners clearly disagree with the Commission's decision to cancel their Certificates, the Petitioners do not address the Commission's reason for the cancellation, *i.e.*, the Company's failure to pay the specified fines within the 30-day period as directed in the *September 2025 Order*. Moreover, as noted by I&E, to date, Best Taxi and Good Cab have neither paid their outstanding civil penalties, nor explained *why* they have not complied with the directives set forth in the *September 2025 Order*. Indeed, the absence of an explanation that addresses why Best Taxi and Good Cab, to date, have failed to pay their respective outstanding civil penalties does not demonstrate sufficient justification to grant reconsideration or rescission of the *October 2025 Secretarial Letter*. These factors, in conjunction with the Companies' failure to file a timely request for a stay of the *September 2025 Order*, militates against granting the Petitions under the circumstances.

While the Companies alleged to have filed a timely appeal of the *September 2025 Order*, it is well settled that the filing of an appeal does not result in a stay of other proceedings, including the possible cancellation of the Companies' Certificates for failure to pay fines specified in a Commission Order. See *e.g.*, *Richard N. Myers v. PPL Electric Utilities Corporation*, Docket No. C-2017-2620710 (Opinion and Order entered December 30, 2019), petition for supersedeas denied, December 19, 2019; *Evangeline Hoffman-Lorah v. PPL Electric Utilities Corporation*, Docket No. C-2018-2644957 (Opinion and Order entered January 2, 2020), petition for supersedeas denied, December 19, 2019; *Evangeline Hoffman-Lorah v. Pa. PUC*, 301 A.3d 492 (Pa. Cmwlth. 2019); *Alan V. Schmukler v. PPL Electric Utilities Corporation*, Docket No. C-2017-2621285 (Opinion and Order entered January 2, 2020), *petition for supersedeas denied*, December 19, 2019; *Alan Schmukler v. Pa. PUC*, 302 A.3d 247

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(Pa. Cmwlth. 2019). See also *Michael T. Jennings v. West Penn Power Company*, Docket No. C-2018-3006031 (Opinion and Order entered November 6, 2025) at 22.

Therefore, while the Companies may have exercised their right to appeal the *September 2025 Order*, such an appeal does not operate as an automatic stay of the Companies' obligation to comply with the Commission's Order to pay the specified fines, within the 30-day period, as directed, unless the Commission issues a stay of the obligation. As previously noted, in their Petitions, the Companies acknowledge that they did not file a request with the Commission to stay the *September 2025 Order*. See Petitions at ¶ 11. Accordingly, absent a stay, the Companies remained under a duty to comply with the Commission's order, but failed to do so. It was the Companies' failure to pay the specified fines within the 30 days, or in the alternative, to seek and be granted stay of the duty to pay the fines by the Commission within that 30 days, which resulted in the cancellation of the Companies' Certificates.

Because we find that the Companies have raised no valid basis for the failure of compliance with the *September 2025 Order's* directives to pay the specified fines within 30 days, we find that the Companies have failed to satisfy the standard for rescission under *Duick*. Therefore, we decline to exercise our discretion to grant a rescission of the *October 2025 Secretarial Letter* cancelling the Companies' Certificates for nonpayment of fines.

We now turn to the Petitioners' request that the Commission grant, *nunc pro tunc*, a stay of the *September 2025 Order*. As discussed, *supra*, in the *September 2025 Order*, the Commission ordered, *inter alia*, that within thirty days of the entry of the *September 2025 Order*, Best Taxi and Good Cab shall remit civil penalty amounts of \$1,050 and \$1,800, respectively. In the *September 2025 Order*, the Commission further directed that if the Companies' respective civil penalty payments were not received by the Commission within thirty days after entry of the

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September 2025 Order, then TUS shall suspend or revoke Best Taxi's Certificate and Good Cab's Certificate. *September 2025 Order* at 25-26, Ordering Paragraph Nos. 6-9. Subsequently, on October 28, 2025, the Commission issued the *October 2025 Secretarial Letter*, wherein it notified the Companies that Best Taxi's Certificate and Good Cab's Certificate were cancelled because to date, more than thirty days after the entry of the *September 2025 Order*, neither Company had paid their respective civil penalty amounts, in full. See *October 2025 Secretarial Letter* at 1.

Under the circumstances, we are constrained to find that the Companies' request for a stay of the *September 2025 Order* is without merit. The Companies seek a stay, *nunc pro tunc*, of the *September 2025 Order*, wherein the Commission, as a substantive matter: (1) rejected the Companies' challenges to the Commission's regulations regarding driver qualifications, and that, (2) as a result, the Companies should pay specified fines (*i.e.* civil penalties) for violations of the Commission's Regulations within thirty days.

To the extent the Companies' Petition for stay seeks to satisfy the *Process Gas* standard's requirement of showing "irreparable harm," the Companies' arguments all relate to the harm resulting from the cancellation of the Companies' Certificates, thirty days *after* the entry of the *September 2025 Order*. Petition at ¶ 19. The Companies' reasoning, however, is flawed, because the cancellations resulted, not from the *September 2025 Order*, but rather, from the Companies' voluntary choice to neither pay the fines within thirty days as directed, nor in the alternative, to seek and be granted a stay from the Commission *prior* to the expiration of the thirty-day period. Therefore, to the extent that any harm may have resulted from the cancellation of the Certificates, it was due to the Companies' chosen course of action, and not because of the *September 2025 Order*. Moreover, recent case law states that the obligation to pay a fine does *not* constitute irreparable harm, because it can be reimbursed. See *Petition of Solarstone Dev., LLC for Interim Emergency Order*, Docket No. P-2025-3053446,

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Opinion and Order at 31 (April 4, 2025). Therefore, we find that the Petitioners failed to satisfy the showing of irreparable harm due to the *September 2025 Order*.

We further find that the Petitioners fail to show that the grant of a stay would be in the public interest. Our directive in the *September 2025 Order* that the Companies pay specified fines for violation of the Commission's Regulations was expressly in the public interest to promote compliance with the Regulations adopted for the safety of the traveling public. We conclude that to grant a stay of the compliance obligations intended to protect the traveling public would be adverse to the public interest.

Because we find that the Petitioners have failed to satisfy the standards of showing irreparable harm, or that a stay would serve the public interest, we find that the Companies fail to satisfy the standard under *Process Gas* for the imposition of a stay of the *September 2025 Order*. Furthermore, because the Petitioners have failed to meet two of the necessary requirements under *Process Gas*, we find it unnecessary to examine the remaining factors. Accordingly, the Petitioners' request for a stay of the *September 2025 Order* is denied.

IV. Conclusion

Based on the foregoing discussion, we shall deny the Petitions filed by Best Taxi and Good Cab, consistent with this Opinion and Order; **THEREFORE,**

IT IS ORDERED:

1. That the "PETITION FOR RECONSIDERATION FROM STAFF ACTION AND FOR *NUNC PRO TUNC* ISSUANCE OF A STAY OF COMMISSION

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ORDER DATED SEPTEMBER 25, 2025,” filed by Best Taxi LLC, on November 10, 2025, is denied.

2. That the “PETITION FOR RECONSIDERATION FROM STAFF ACTION AND FOR *NUNC PRO TUNC* ISSUANCE OF A STAY OF COMMISSION ORDER DATED SEPTEMBER 25, 2025,” filed by Good Cab LLC, on November 10, 2025, is denied.

3. That this proceeding, at Docket Nos. C-2022-3029070 and C-2022-3029079, be marked closed.

BY THE COMMISSION,



Matthew L. Homsher
Secretary

(SEAL)

ORDER ADOPTED: January 15, 2026

ORDER ENTERED: January 15, 2026

CERTIFICATE OF SERVICE

I hereby certify that I am this day serving the foregoing Brief by
PACfile and first-class mail upon the person(s) below pursuant to Pa. R.A.P.
121:

Adam D. Young, Esquire
Pennsylvania Public Utility Commission, Law Bureau
400 North Street,
Keystone Building
Harrisburg, PA 17120
adyoung@pa.gov

Matthew Homsher, Secretary
Pennsylvania Public Utility Commission
P.O Box 3265
Harrisburg, PA 17105-3265
mhomsher@pa.gov

PA Attorney General Office
of Attorney General
Strawberry Square, 16th Floor
Harrisburg, PA 17120

Grant Rosul, Esquire
Pennsylvania Public Utility Commission
Bureau of Investigation and Enforcement
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120
grosul@pa.gov

Date: 02/27/2026

/s/ Cory A. Leshner
Cory A. Leshner, Esquire
/s/ Michael Farabella
Michael Farabella, Esquire
Counsel for Petitioners

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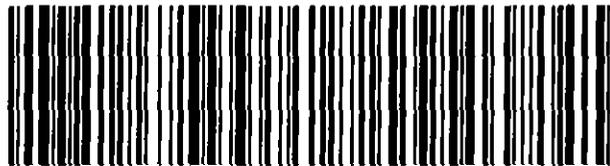
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Matthew Homsher,
Po Box 3265
Harrisburg PA 17105-3265



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