

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

Public Meeting held May 21, 2026

Commissioners Present:

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

Application of MH HARVESTING & HAULING LLC

A-2026-3059937  
A-8928576

**OPINION AND ORDER**

**BY THE COMMISSION:**

Before the Pennsylvania Public Utility Commission (Commission) for consideration and disposition is the Petition for Reconsideration from Staff Action (Petition),<sup>1</sup> filed on February 19, 2026, by MH HARVESTING & HAULING LLC

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<sup>1</sup> Because the instant Petition challenges the action taken in the Secretarial Letter issued on February 11, 2026 (*February 2026 Secretarial Letter*) relative to this proceeding and was filed within twenty (20) days of the issuance of the *February 2026 Secretarial Letter*, we shall regard the filing as a Petition for Reconsideration from Staff Action pursuant to Commission Regulations at 52 Pa. Code § 5.44(a).

(MH Harvesting or Petitioner),<sup>2</sup> in the above-captioned proceeding. No response to the Petition has been filed. In its Petition, MH Harvesting seeks reconsideration of the *February 2026 Secretarial Letter*, which was issued by the Commission’s Bureau of Technical Utility Services (TUS), denying MH Harvesting’s Application requesting authority to transport fly ash as a motor common carrier of property (Application). More specifically, the Petitioner seeks reconsideration of the denial of its Application because MH Harvesting proposes to provide transport services for fly ash for hire only and does not transport the commodity for private use.

For the reasons set forth herein, we shall grant the Petition, rescind the *February 2026 Secretarial Letter*, and refer this matter to TUS for such further action as may be deemed necessary, consistent with the discussion in this Opinion and Order.

## I. Procedural History

On January 19, 2026, MH Harvesting filed its Application with the Commission, requesting authority to transport fly ash as a motor common carrier of property. Application at 1-3.

On January 26, 2026, the Commission issued a data request (*January 2026 Data Request*) informing the Applicant that additional information was needed in order to proceed with the Application. Specifically, TUS sought information regarding the type of service being proposed and the entities that hire the Applicant for transport of the commodity listed in the Application. Attachment to the *January 2026 Data Request* at 3. The *January 2026 Data Request* indicated that additional information was required

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<sup>2</sup> We note, at the outset, that MH Harvesting is a registered entity with the Pennsylvania Department of State. Application at 1. We also note that the Petitioner has a United States Department of Transportation (USDOT) Number of 4520662 as stated on the Application. Application at 2.

within ten (10) working days of the date on the letter and further instructed that the Applicant's response should include a signed verification with an original signature, pursuant to 52 Pa. Code § 1.36. A sample Verification was also supplied.

*See January 2026 Data Request.*

Additionally, the Attachment to the *January 2026 Data Request* stated, in pertinent part, as follows:

On your Application for Motor Common Carrier of Property, Question #10 – you listed “Fly Ash” as the Commodity you intend to transport. Please answer the following questions:

1.) Are the materials you listed in Question #10 of your application used exclusively for work/contracts for MH Harvesting & Hauling LLC? YES NO. If not, please explain in detail.

2.) Will the commodities you listed (Fly Ash) be transported by MH Harvesting & Hauling LLC to purchasers directly from MH Harvesting & Hauling LLC? YES NO. If not, please explain in detail.

*See Attachment to the January 2026 Data Request at 3.*

On February 5, 2026, MH Harvesting filed a timely response to the *January 2026 Data Request* and indicated that the commodity listed in the Application is the only item transported by the Petitioner (*February 2026 Data Response*). Also, MH Harvesting stated that the commodity being transported is used exclusively for work/contracts for the Petitioner. By further response, the Petitioner submitted that the Applicant transports the listed commodity for hire only and not for personal use.

*February 2026 Data Response at 1.*

On February 11, 2026, upon review of the submitted information, the Commission issued its *February 2026 Secretarial Letter* informing MH Harvesting that it determined that the proposed service is considered private transportation of property. The Commission determined that the requested transportation services remain outside of the Commission's jurisdiction and are exempt from Commission regulation and oversight. *February 2026 Secretarial Letter* at 1.

Additionally, the *February 2026 Secretarial Letter* informed MH Harvesting that, if it disagreed with the Commission's determination, then it could submit a Petition for Reconsideration from Staff Action with the Commission's Secretary within twenty (20) days of the date of the *February 2026 Secretarial Letter*. Further, TUS outlined instructions regarding the form and content of such a Petition for Reconsideration from Staff Action, including references to the inclusion of relevant documentation and a signed verification statement, as set forth in 52 Pa. Code §§ 1.31 and 5.44. *February 2026 Secretarial Letter* at 1-2.

As noted above, on February 19, 2026, MH Harvesting timely filed its Petition requesting an appeal of the Commission's denial of its Application based on additional information that its primary business is transporting fly ash exclusively for hire and, therefore, Commission authority is required to operate as a motor carrier in Pennsylvania. Petition at 1. The Petitioner also attached TUS' questions listed in its *January 2026 Data Request* and corrected its response to Question 1 indicating that MH Harvesting provides transport of fly ash exclusively for hire. *Id.* at 2. No response to the Petition has been filed.

## II. Discussion

### A. Legal Standards

Before us is a Petition for Reconsideration from Staff Action, pursuant to 52 Pa. Code § 5.44(a). Petitions for Reconsideration from Staff Action are governed by Section 5.44(a) of the Commission's Rules of Administrative Practice and Procedure, 52 Pa. Code § 5.44(a), which provides the following:

Actions taken by staff, other than a presiding officer, under authority delegated by the Commission, will be deemed to be the final action of the Commission unless reconsideration is sought from the Commission within 20 days after service of notice of the action, unless a different time period is specified in this chapter or in the act.

52 Pa. Code § 5.44(a).

In considering the appeal from Staff Action, the Application, and the Commission's regulatory authority, Section 332(a) of the Public Utility Code (Code), 66 Pa.C.S. § 332(a), provides that the party seeking affirmative relief from the Commission has the burden of proof. In this proceeding, the Petitioner is the party seeking affirmative relief from the Commission. Therefore, the Petitioner is the party with the burden of proof. *See 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) (*Application of 610 Hauling*) (citing *Se-Ling Hosiery, Inc. v. Margulies*, 70 A.2d 854 (Pa. 1950)).

Additionally, the Commission must ensure that the decision is supported by substantial evidence in the record. The Pennsylvania appellate courts have defined substantial evidence to mean such relevant evidence that a reasonable mind may accept as adequate to support a conclusion; more is required than a mere trace of evidence or a suspicion of the existence of a fact sought to be established. *Application of 610 Hauling, supra*, (citing *Norfolk & Western Railway Co. v. Pa. PUC*, 413 A.2d 1037 (Pa. 1980)); *Murphy v. Pa. Dept. of Public Welfare, White Haven Center*, 480 A.2d 382 (Pa. Cmwlth. 1984).

In the instant proceeding, pursuant to Section 1103(a) of the Code, 66 Pa.C.S. § 1103(a), an application for a certificate of public convenience (Certificate) should be granted only if the Commission finds that “the granting of such certificate is necessary or proper for the service, accommodation, convenience or safety of the public.” To make these determinations, the Commission’s Regulations, at 52 Pa. Code §§ 3.381-85, and the Commission’s Policy Statement, at 52 Pa. Code § 41.14, establish the evidentiary guidelines and criteria to be examined by the Commission when considering whether to grant or deny an application for authority. In addition, the Commission’s enabling statute delineates a list of exemptions excluding certain transportation services by common carrier by motor vehicle. *See* 66 Pa.C.S. § 102 *et seq.*

The Commission will only grant a Certificate if the applicant is a “public utility” as defined in Section 102 of the Code, 66 Pa.C.S. § 102. Section 102 provides the following, in pertinent part:

**“Public utility”**

(1) Any person or corporation now or hereafter owning or operating in this Commonwealth equipment or facilities for:

\* \* \*

(iii) Transporting passengers or property as a common carrier.

\* \* \*

(2) *The term does not include:*

(i) Any person or corporation, not otherwise a public utility, who or which furnishes service only to himself or itself.

66 Pa.C.S. § 102 (emphasis added).

At the same time, the Applicant must provide proof that it proposes to provide service as defined in Section 102 of the Code, 66 Pa.C.S. § 102. Section 102 further provides the following, in pertinent part:

**“Common carrier by motor vehicle.”**

(1) Any common carrier who or which holds out or undertakes the transportation of passengers or property, or both, or any class of passengers or property, between points within this Commonwealth by motor vehicle for compensation, ...

\* \* \*

(3) *The term does not include:*

\* \* \*

(iv) Any person or corporation who or which uses, or furnishes for use, dump trucks for the transportation of ashes, rubbish, excavated and road construction materials...

(v) Transportation of property by the owner to himself, or to purchasers directly from him, in vehicles owned or operated by the owner of such

property and not otherwise used in transportation of property for compensation for others.

66 Pa.C.S. §§ 102(3)(iv) and (v) (emphasis added).

In every matter before the Commission, we must decide initially whether the Commission has jurisdiction over the Parties and subject matter at dispute. As a creature of legislation, the Commission possesses only the authority the state legislature has specifically granted to it in the Code. 66 Pa.C.S. §§ 101, *et seq.* Its jurisdiction must arise from the express language of the pertinent enabling legislation or by strong and necessary implication therefrom. *Feingold v. Bell of Pa.*, 383 A.2d 791 (Pa. 1977); *Allegheny County Port Authority v. Pa. PUC*, 237 A.2d 602 (Pa. 1967); *Behrend v. Bell of Pa.*, 390 A.2d 233 (Pa. Super. 1978); *Pa. Department of Highways v. Pa. PUC*, 182 A.2d 267 (Pa. Super. 1962); and *City of Erie v. Pa. Electric Co.*, 383 A.2d 575 (Pa. Cmwlth. 1978). The Commission must act within, and cannot exceed, its jurisdiction. *City of Pittsburgh v. Pa. PUC*, 43 A.2d 348 (Pa. Super. 1945).

In addition, Section 501 of the Code grants the Commission authority to supervise and regulate all public utilities doing business in the Commonwealth and requires all public utilities to comply with regulations and orders. *See* 66 Pa.C.S. § 501. In addition, Section 1101 of the Code provides that it shall be unlawful for a proposed public utility to begin to offer, render, furnish, or supply service within the Commonwealth prior to approval of its application. *See* 66 Pa.C.S. § 1101.

For purposes of this Application, MH Harvesting must prove that the transportation service it provides falls within the definition of “public utility” service as set forth in the Code and Commission Regulations.

## **B. Petition**

The Petition consists of a four page filing with two numbered paragraphs with subparts in response to the *February 2026 Secretarial Letter*, as well as a Verification statement signed by Mr. Mason Houser, owner of MH Harvesting. Therein, the Petitioner requests reconsideration of the *February 2026 Secretarial Letter*, wherein the Commission denied the Petitioner's Application. More specifically, the Petitioner requests that the Commission consider its appeal, in light of the fact that he hauls fly ash for hire only and "PUC authority is required for me to operate as a motor carrier in Pennsylvania." Petition at 1. In support of the Petition, MH Harvesting has submitted a corrected response to the Commission's *January 2026 Data Request* clarifying that he transports fly ash solely for hire. *Id.* at 2.

The Petitioner avers, in pertinent part, as follows:

I am solely for hire. I made the wrong selection on number 1 of the Request for Information page of the Data Request Letter. Because I am solely For Hire, I should have answered NO. I am including a corrected copy of the Data Request Letter.

Petition at 1.

The Petitioner also attaches to its Petition corrected responses to the questions contained in the Commission's *January 2026 Data Request*. The responses attached to the Petition further indicate that the transportation of fly ash by MH Harvesting is not used exclusively for work/contracts for the Petitioner. Also, the Petitioner does not provide transport of fly ash to purchasers directly from MH Harvesting. Petition at 2.

Based upon the Petition and attached responses to the Commission's initial data requests, the Petitioner asks the Commission to reconsider the denial of its Application. Petition at 1.

### **C. Disposition**

Any argument that 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).

Based on our review of the Petition and the associated record documents, we shall rescind the *February 2026 Secretarial Letter*. Initially, we find that MH Harvesting has met its burden of proof for reconsideration of a Staff Action under the factual circumstances presented in the instant matter. In its Petition, MH Harvesting provides additional information in support of its purported need for Commission authority to undertake certain transportation of the commodity, fly ash. Petition at 1.

Based upon MH Harvesting's response to the Commission's *January 2026 Data Request*, TUS determined that the proposed transportation services were exempt from Commission regulation because the service is private transportation of property. As noted above, in its responses to the Commission's data requests, MH Harvesting indicated that it hauls only one commodity, fly ash, which is used exclusively for work/contracts for MH Harvesting, as well as transporting the commodity for customers for hire. *January 2026 Data Response* at 1. In its Petition, MH Harvesting clarifies that the transportation of fly ash by the Petitioner is not used for work/contracts for the Petitioner. Petition at 2.

We observe that this is an uncontested matter, and the Petitioner has been responsive to TUS's *January 2026 Data Request* and has made an attempt in its Petition to explain why it believes Commission authority is required to provide the subject transportation service. Namely, in its Petition, MH Harvesting states that it intends to provide transportation of fly ash to the public for compensation. Petition at 1-2. The Petitioner further clarifies that it does not use the transported commodity exclusively for work/contracts for MH Harvesting and indicates that it transports the fly ash for hire only. *Id.* at 2. The Petitioner also submits the following:

I made the wrong selection on number 1 of the Request for Information page of the Data Request Letter. Because I am solely For Hire, I should have answered NO. I am including a corrected copy of the Data Request Letter.

*See* Petition at 1-2.

We acknowledge that the Applicant's responses to TUS's *January 2026 Data Request* may not have accurately reflected MH Harvesting's proposed transportation services. Thus, we find that the clarification provided by the Applicant in its Petition, as well as our review of the information provided by MH Harvesting in its Application, warrants additional review by the Commission. *See* Petition at 1-4; Application at 1-3.

We conclude that, under the circumstances in this case, it is appropriate and reasonable to rescind the *February 2026 Secretarial Letter* and refer this matter to TUS for consideration and such further action as may be warranted, given TUS' expertise in reviewing applications for Commission authority. Such a referral will provide TUS the opportunity to review the information provided with the Petition and to request any additional information or evidence from MH Harvesting, if necessary. Moreover, given the procedural posture of this case, acknowledging the new considerations provided in

the Petition and referring this matter to TUS for further consideration is a more efficient use of the Commission's and MH Harvesting's resources at this stage of the proceeding.

In addition, the Commission takes no position on the merits of MH Harvesting's Application at this time, but solely notes that it is appropriate to refer this matter to TUS based on the responsive filing. It is for TUS to render a determination as to whether the factual circumstances of the nature of MH Harvesting's operations falls under the exemption from Commission jurisdiction for the transportation of fly ash under Section 102(3)(iv) and (v) of the Code, 66 Pa.C.S. §§ 102(3)(iv) and (v), or otherwise. We emphasize to MH Harvesting that it should endeavor to provide clear and complete information to TUS, as applicable, to facilitate an exhaustive review of its Application and the proposed services contemplated therein.

### **III. Conclusion**

For the reasons discussed herein, we shall grant MH Harvesting & Hauling LLC's Petition for Reconsideration from Staff Action, rescind the *February 2026 Secretarial Letter*, and refer this matter to TUS for such further action as may be warranted, consistent with this Opinion and Order; **THEREFORE,**

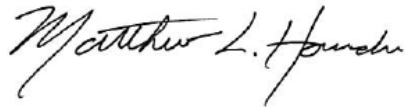
#### **IT IS ORDERED:**

1. That the Petition for Reconsideration from Staff Action, filed by MH Harvesting & Hauling LLC on February 19, 2026, at Docket No. A-2026-3059937, is granted, consistent with this Opinion and Order.

2. That the Secretarial Letter issued on February 11, 2026, at Docket No. A-2026-3059937, is rescinded.

3. That this matter is referred to the Commission's Bureau of Technical Utility Services for such further action as may be deemed necessary, consistent with this Opinion and Order.

**BY THE COMMISSION,**

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

Matthew L. Homsher  
Secretary

(SEAL)

ORDER ADOPTED: May 21, 2026

ORDER ENTERED: May 21, 2026