**PENNSYLVANIA**

**PUBLIC UTILITY COMMISSION**

**Harrisburg, PA 17105-3265**

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|  | Public Meeting held October 1, 2015 |
| Commissioners Present:  Gladys M. Brown, Chairman  John F. Coleman, Jr., Vice Chairman  Pamela A. Witmer  Robert F. Powelson |  |
| Pennsylvania Public Utility Commission, Bureau of Investigation and Enforcement  v.  Donald Elwood Dorr t/a Wilkinsburg Moving Exchange | C-2014-2411927 |
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**OPINION AND ORDER**

**BY THE COMMISSION:**

Before the Pennsylvania Public Utility Commission (Commission) for consideration and disposition is a Petition for Reconsideration[[1]](#footnote-1) (Petition) filed by Donald Elwood Dorr t/a Wilkinsburg Moving Exchange (Petitioner), on January 2, 2015,[[2]](#footnote-2) relative to the above-captioned proceeding. The Order to which the Petition refers was issued on December 4, 2014 (*December 2014 Order)*. I&E filed an Answer to the Petition (Answer) on January 27, 2015[[3]](#footnote-3). For the reasons that follow, we shall deny the Petition.

**History of the Proceeding**

The Petitioner was issued a Certificate of Public Convenience (Certificate) on June 29, 1965, at Docket No. A-00091972, for truck and household goods carrier authority. In 2010, the Petitioner’s Certificate was cancelled for failure to maintain evidence of liability insurance, and subsequently reinstated on June 16, 2010.

On March 24, 2014, I&E filed a Complaint that alleged that the Petitioner violated Section 510(b) of the Public Utility Code (Code), 66 Pa. C.S. § 510(b), by failing to file assessment reports demonstrating its gross intrastate operating revenues for the 2010, 2011 and 2012 calendar years. I&E recommended a total civil penalty of $3,000 for this violation. In addition, I&E requested that if the Petitioner did not pay the civil penalty, the Commission issue an Order cancelling the Petitioner’s Certificate.

No answer to the Complaint was filed, and on July 30, 2014, I&E filed a Motion for Default Judgment.

On December 4, 2014, the Commission entered an Opinion and Order granting I&E’s Motion for Default Judgment and sustaining I&E’s Complaint. The Commission directed the Petitioner to remit $3,000 for the civil penalty within thirty days, or the Petitioner’s Certificate would be cancelled.

As stated above, on January 2, 2015, the Petitioner filed a revised Petition and on January 27, 2015, I&E filed an Answer.

**Discussion**

In considering this Petition, we are not required to consider expressly or at great 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.

**The Petition**

The Petitioner requests that the Commission reconsider the $3,000 fine for the following reasons:

1. Due to Donald Elwood Dorr’s death our company was not organized.

2. Due to my mother’s illness we became even more disorganized.

3. Plans to transfer the household goods in use from Donald Elwood Dorr t/d/b/a Wilkinsburg Moving Exchange to John Elwood Dorr t/a Wilkinsburg Moving Exchange.

4. Attached are the Assessment Reports covering years 2010, 2011, 2012, and 2013 submitted for Donald Elwood Dorr, Deceased.

5. Future Assessment Reports will be filed in a timely manner.

6. The $3,000 fine for our company is devastating.

Petition at 1.

The Petitioner further asks to be giving another opportunity to demonstrate that it can, and will, operate under the Regulations of the Commission. *Id.*

**I&E’s Answer to the Petition**

I&E states that the arguments raised in the Petition are undoubtedly new since the Petitioner failed to answer every prior pleading in this matter. I&E avers that the Petitioner admitted in its Petition, that it failed to file assessment reports for several years, therefore, admitting to violating Section 510(b) of the Code, 66 Pa. C.S. § 510(b). Answer at 4.

I&E opines that the Petitioner has not met the high standard for rescinding or amending the Commission’s Order and requests that the Commission deny the Petition. *Id.* at 5.

**Disposition**

While we are sympathetic to the Petitioner’s circumstances, the infraction goes back to 2010, and the Petition does not specify when the events that led to the alleged disorganization occurred. We note that the Petitioner has been certified since 1965. Also, a family member of the Petitioner, John Elwood Dorr, who stated in the Petition that he plans to transfer the household goods in use certificate from Donald Elwood Dorr to John Elwood Dorr, had been granted a certificate for truck authority on May 26, 2009. With these facts, we aver that there was full knowledge of the import of compliance with these regulatory requirements. As appropriately noted by I&E in its Answer, the Petitioner admitted in its Petition that it failed to file assessment reports for a number of years, and in fact, attached the past due assessment reports to the Petition.

Furthermore, the Petitioner was served I&E’s Complaint by certified mail, and the Petitioner signed a form acknowledging receipt of the Complaint. The Petitioner did not answer the Complaint, nor did it file any assessment reports or pay any amount of the civil penalty at that time. I&E’s Motion for Default Judgment was similarly ignored.

We agree with I&E in that the high standard for rescinding or amending the Commission’s Order has not been met. Timely submission of assessment reports is critical. An accurate reporting of gross intrastate operating revenues allows the Commission to assess each utility a fair share of the Commission’s costs in administering the Public Utility Code. The Petitioner has had numerous opportunities to submit assessment reports to the Commission prior to the imposition of the $3,000 civil penalty but chose to ignore the situation until the *December 2014 Order* threatened the cancellation the Petitioner’s Certificate. Based on our review of the record, we shall deny the Petition for Reconsideration.

**Conclusion**

For the reasons set forth above, we will deny the Petition, consistent with this Opinion and Order; **THEREFORE,**

**IT IS ORDERED:**

1. That the Petition for Reconsideration filed by Donald Elwood Dorr t/a Wilkinsburg Moving Exchange, on January 2, 2015, is denied.

2. That the Secretary’s Bureau shall mark Docket No. C-2014-2411927 closed.

 **BY THE COMMISSION,**

Rosemary Chiavetta

Secretary

(SEAL)

ORDER ADOPTED: October 1, 2015

ORDER ENTERED: October 1, 2015

1. A letter titled “Petition for Recommendation” was filed. We will regard it as a Petition for Reconsideration. [↑](#footnote-ref-1)
2. On December 12, 2014, the Petitioner filed the instant Petition. The Bureau of Investigation and Enforcement (I&E) was not served a copy of the Petition. On December 17, 2014, the Commission returned the Petition because a verification statement was not included. On December 18, 2014, the Commission granted reconsideration pending further review of the merits. On January 2, 2015, the Petitioner filed a revised Petition with a completed verification statement. I&E was not served a copy of the revised Petition. [↑](#footnote-ref-2)
3. I&E became aware of the Petitioner’s January 2, 2015 Petition through independently searching the Commission’s electronic database on January 16, 2015. Upon discovery, I&E filed a letter requesting a twenty day extension of time to respond to the Petition, thereby making February 5, 2015, the proposed due date. [↑](#footnote-ref-3)