

LOUISIANA PUBLIC SERVICE COMMISSION

ORDER NUMBER T-35656

LOUISIANA PUBLIC SERVICE COMMISSION
VERSUS
BONOMOLO LIMOUSINES, INC.
(NEW ORLEANS, LOUISIANA)

Docket No. T-35656, In re: Cancellation of Registration & Insurance Number 1529 and Common Carrier Certificate Number 7419-A for failure to file an Annual Report for 2019 and/or pay a late filing fee of \$500.00 and a citation fee of \$25.00 as required by General Order 2 dated July 21, 1921 and General Order dated April 23, 2001 amended June 19, 2012.

(Decided at the January 27, 2021 Business and Executive Session.)

Background

The Louisiana Public Service Commission (“Commission”) issued a citation to Bonomolo Limousines, Inc. of New Orleans, Louisiana (“Carrier”) on September 4, 2020, directing the Carrier to appear at a hearing on October 27, 2020, to show cause why its Registration and Insurance Number 1529 and Common Carrier Certificate Number 7419-A should not be canceled due to the Carrier’s failure to file an annual report for 2019 and/or pay a late filing fee in the amount of five hundred dollars (\$500.00) and a citation fee in the amount of twenty-five dollars (\$25.00), as required by the Commission’s General Order No. 2 dated July 1, 1921, and the Commission’s General Order dated April 23, 2001, amended on June 19, 2012. The citation was sent to the Carrier’s address on file with the Commission by certified mail and regular mail. Notice of the proceeding was published in the Commission’s Official Bulletin No. 1227 on September 4, 2020. When the hearing convened, Commission Staff (“Staff”) appeared to present its case-in-chief; the Carrier failed to appear and present a defense.

On November 6, 2020, the Administrative Law Judge (“ALJ”) assigned to this matter issued a Recommendation of the Administrative Law Judge (“Recommendation”) and Draft Order to the Commission recommending that the Commission deny Staff’s request that the Carrier’s Registration and Insurance Number 1529 be cancelled,¹ that the Commission deny Staff’s request that the Carrier be assessed and ordered to pay fees in the total amount of five hundred twenty-five dollars (\$525.00), and that this matter be dismissed without prejudice.

On November 17, 2020, Joseph Bonomolo, the Carrier’s President, executed a Form T-80, a notarized affidavit requesting the cancellation of the Carrier’s Registration and Insurance Number 1529. Accordingly, the Commission issued Order No. 70-2020,² which canceled and revoked the Carrier’s Registration and Insurance Number 1529.

Commission Jurisdiction and Applicable Law

The Commission exercises jurisdiction over common carriers in Louisiana pursuant to Article

¹ See Order No. T-35586 dated September 9, 2020, cancelling the Carrier’s Common Carrier Certificate Number 7419-A, leaving only the Carrier’s Registration and Insurance Number 1529 active. See Docket No. T-35586, Re: Louisiana Public Service Commission vs. Bonomolo Limousines, Inc. (Metairie, Louisiana), *In re: Cancellation of Common Carrier Certificate Number 7419-A for failure to maintain the required insurance coverage on file with the Commission pursuant to Commission’s General Order dated January 12, 1976.*

² See Order No. 70-2020 dated November 20, 2020, Re: Bonomolo Limousines, Inc., ex parte, *In re: Request for cancellation of LPSC RI No. 1529.*

IV, Section 21(B) of the Louisiana Constitution, which provides the following:

The commission shall regulate all common carriers and public utilities and have such other regulatory authority as provided by law. It shall adopt and enforce reasonable rules, regulations, and procedures necessary for the discharge of its duties, and shall have other powers and perform other duties as provided by law.

In addition, Louisiana Revised Statutes, Section 45:163 provides that “[t]he [C]ommission has the power and authority necessary to supervise, govern, regulate, and control motor carriers...which transport household goods, passengers, or waste intrastate.” The Commission has a long-established requirement that motor carriers under its jurisdiction must file with the Commission an annual report, which is a sworn statement of a company’s operating expenses, operating revenues, and income amounts.³ In 1965, the Commission established a fee of fifty dollars (\$50.00) for the late filing of annual reports and recognized a deadline of March 31 of each year for the filing of annual reports.⁴ The amount of the late filing fee was increased to five hundred dollars (\$500.00) pursuant to the Commission’s General Order dated April 23, 2001. The Commission’s General Order dated June 19, 2012, clarified that the five hundred dollars (\$500.00) to be paid by an entity for failure to file an annual report timely is to be considered a “late fee.” The Commission’s Special Order No. 24-2020 provides that Commission-regulated entities that operate on a calendar yearend had until July 15, 2020, to file their 2019 annual reports with the Commission.

Louisiana Revised Statutes, Section 45:166 permits the Commission to amend, suspend, or revoke a certificate, in whole or in part, if, after notice and hearing, it is determined that the carrier has failed to comply with statutory requirements or Commission orders, rules, or regulations.

Recommendation of the Administrative Law Judge

The ALJ’s Recommendation recommended that Staff’s requests be denied based upon a finding that Staff failed to satisfy its evidentiary burden of proving that the copy of the citation issued via certified mail was delivered to the Carrier. The ALJ determined that evidence regarding delivery of notice to the Carrier of the hearing on the citation was ambiguous, and the Tribunal concluded that “Staff did not offer any evidence to establish the basis for the alleged agency relationship between the Carrier and the referenced agent, or even the identity of the purported agent.”⁵ Regarding findings of fact, the ALJ found that, as of the date of the hearing, the Carrier failed to file a 2019 annual report with the Commission.⁶

Commission Consideration

This matter was considered at the Commission’s January 27, 2021 Business and Executive Session. Commissioner Francis made the following motion, which was seconded by Vice Chairman Skrmetta, and unanimously adopted: “After reviewing the record of this docket, I

³ See, e.g., GENERAL ORDER No. 2 (Jul. 1, 1921).

⁴ Minute entry from the Commission’s Business and Executive Session held on October 22, 1965.

⁵ Draft Order, at 7.

⁶ Draft Order, at 6.

disagree with the ALJ. The ALJ not only placed a higher burden on Staff than prior Commission decisions, but also relied upon a prior determination that the Commission rejected. Further, it is my understanding that the Carrier cited has requested, and been granted, cancellation of its registration and insurance number with the Commission. Therefore, I move that we reject the Recommendation of the Administrative Law Judge and dismiss this docket with prejudice.”

THEREFORE, IT IS ORDERED:

1. That the Recommendation of the Administrative Law Judge is rejected; and
2. That this docket is dismissed with prejudice.

This Order is effective immediately.

**BY ORDER OF THE COMMISSION
BATON ROUGE, LOUISIANA
February 25, 2021**



A handwritten signature in blue ink, appearing to read "Brandon M. Frey".

**BRANDON M. FREY
SECRETARY**

/S/ CRAIG GREENE

DISTRICT II

CHAIRMAN CRAIG GREENE

/S/ ERIC F. SKRMETTA

DISTRICT I

VICE CHAIRMAN ERIC F. SKRMETTA

/S/ FOSTER L. CAMPBELL

DISTRICT V

COMMISSIONER FOSTER L. CAMPBELL

/S/ LAMBERT C. BOISSIERE, III

DISTRICT III

COMMISSIONER LAMBERT C. BOISSIERE, III

/S/ MIKE FRANCIS

DISTRICT IV

COMMISSIONER MIKE FRANCIS