

Decision No. R04-0399

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 04G-139CP

COLORADO PUBLIC UTILITIES COMMISSION,

COMPLAINANT,

V.

RDS TRANSPORTATION, LTD., DOING BUSINESS AS
YELLOW CAB OF COLORADO SPRINGS ET AL.,

RESPONDENT.

**RECOMMENDED DECISION OF
ADMINISTRATIVE LAW JUDGE
MANA L. JENNINGS-FADER
ACCEPTING PAYMENT AND ADMISSION
OF LIABILITY, ASSESSING A CIVIL
PENALTY, AND CLOSING DOCKET**

Mailed Date: April 16, 2004

I. STATEMENT, FINDINGS, AND CONCLUSION

1. The issuance of Civil Penalty Assessment Notice No. 28537 (CPAN) commenced this proceeding. The CPAN alleges that, on February 4, 2004, RDS Transportation, Ltd., doing business as Yellow Cab of Colorado Springs *et al.* (Respondent), refused to provide taxi service, in violation of Rule 4 *Code of Colorado Regulations* (CCR) 723-31-23.3.

2. The CPAN states that, if payment is received within ten days from the date of the CPAN's issuance, the civil penalty is \$100. If payment is not received within ten days, the CPAN states that the Commission Staff (Staff) will seek a civil penalty in the amount of \$200,

which is the maximum civil penalty for the alleged violation. The CPAN also states that payment of the assessment is an acknowledgement (*i.e.*, admission) of liability. *See* CPAN at 2.

3. The CPAN was issued on March 17, 2004.

4. On March 25, 2004, Respondent paid \$100. By the payment, Respondent acknowledged (*i.e.*, admitted) the alleged violation. *See* CPAN at 2, signed by Respondent.

5. Respondent does not dispute the Commission's jurisdiction. The Commission has subject matter jurisdiction over this case and personal jurisdiction over the Respondent.

6. Rule 4 CCR 723-31-23.3 provides, in relevant part, "[n]o operator or driver of any taxicab shall refuse to transport any passenger upon request[.]" The Rule contains exceptions which do not apply in this case.

7. Respondent has admitted, and the ALJ finds and concludes, that Respondent violated Rule 4 CCR 723-31-23.3 on February 4, 2004, as alleged in the CPAN.

8. In accordance with the provisions of the CPAN, the civil penalty to be assessed in this proceeding is \$100, which amount Respondent tendered to the Commission on March 25, 2004.

9. The ALJ finds and concludes that the assessed civil penalty is in the public interest.

10. The ALJ finds and concludes that, assuming the submitted payment clears and the money is collected by the Commission, this docket should be closed.

11. The ALJ finds and concludes that, in the event the payment does not clear and the Commission does not collect the money, the \$100 payment was not made within the required ten days; the maximum civil penalty is \$200; the acknowledgement is void; and this docket should not be closed. In the event the submitted payment does not clear, Staff shall file, within 14 days of learning that the payment did not clear, a request to reopen this proceeding and shall state that this Decision is the basis for the request to reopen.

12. Pursuant to § 40-6-109, C.R.S., the ALJ recommends that the Commission enter the following order.

II. ORDER

A. The Commission Orders That:

1. RDS Transportation, Ltd., doing business as Yellow Cab of Colorado Springs *et al.*, violated Rule 4 *Code of Colorado Regulations* 723-31-23.3 on February 4, 2004.

2. A civil penalty is assessed against RDS Transportation, Ltd., doing business as Yellow Cab of Colorado Springs *et al.*, in the amount of \$100 *provided* the submitted payment clears and the money is collected by the Commission.

3. This docket is closed, subject to reopening pursuant to ¶ II.4.

4. In the event the submitted payment does not clear and the money is not collected by the Commission, the maximum civil penalty is \$200; the acknowledgement is void; and this docket may be reopened. In the event the submitted payment does not clear, Staff shall file, within 14 days of learning that the payment did not clear, a request to reopen this proceeding.

5. This Recommended Decision shall be effective on the day it becomes the Decision of the Commission, if that is the case, and is entered as of the date above.

6. As provided by § 40-6-109, C.R.S., copies of this Recommended Decision shall be served upon the parties, who may file exceptions to it.

a) If no exceptions are filed within 20 days after service or within any extended period of time authorized, or unless the decision is stayed by the Commission upon its own motion, the recommended decision shall become the decision of the Commission and subject to the provisions of § 40-6-114, C.R.S.

b) If a party seeks to amend, modify, annul, or reverse basic findings of fact in its exceptions, that party must request and pay for a transcript to be filed, or the parties may stipulate to portions of the transcript according to the procedure stated in § 40-6-113, C.R.S. If no transcript or stipulation is filed, the Commission is bound by the facts set out by the administrative law judge and the parties cannot challenge these facts. This will limit what the Commission can review if exceptions are filed.

7. If exceptions to this Recommended Decision are filed, they shall not exceed 30 pages in length, unless the Commission for good cause shown permits this limit to be exceeded.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Administrative Law Judge