

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF
COLORADO

Proceeding No. 14G-0063EC
Civil Penalty Assessment Notice 108230

PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO,

Complainant,

v.

FLEET LOGISTICS LLC & Florence Nwaneto individually in her official capacity
as owner/operator of Fleet Logistics,

Respondent.

STIPULATION AND SETTLEMENT AGREEMENT

Staff of the Public Utilities Commission (“Staff”) and Respondents Fleet Logistics LLC and Florence Nwaneto (“Respondents”) (collectively, the “Parties”) enter into this Stipulation and Settlement Agreement (“Agreement”) in the above-referenced Docket as a complete and final resolution of all issues that were or could have been raised in this proceeding.

Background

On December 19, 2013, the Commission issued Respondents Civil Penalty Assessment Notice No. 108230 (the “CPAN”) seeking civil penalties of \$2,612.50 (or \$1,306.25 if paid within 10 days). The CPAN alleged five violations of 4 *Code of Colorado Regulations* (“CCR”) § 723-6-6105(c) and one violation of 4 CCR § 723-6-6309(c). The CPAN was served by certified mail on January 14, 2014.

Settlement Agreement

Staff and Respondents hereby stipulate and agree as follows:

1. Respondents admit liability to all the violations in the CPAN.
2. Respondents agree to comply with all Colorado and federal statutes and rules concerning limited regulation carriers and motor carriers, including but not limited to rules concerning the timely submittal of fingerprints by drivers employed by or contracting with Respondents, and concerning the prohibitions against stationing a vehicle in front of a hotel without a completed charter order.
3. The Agreement herein has been reached in the spirit of compromise and in light of the uncertainties of trial. The Agreement has also been reached to avoid the costly expense of litigation. The Agreement promotes administrative efficiency by avoiding the time and expense that would be necessarily devoted to hearing this matter. The public interest is served by requiring the payment by Respondents of a civil penalty in the amount of \$1,306.25 under the terms in this Agreement. In reducing the penalty, Staff considered the following mitigating factors pursuant to Commission Rule 1302(b):
 - a. Respondents acknowledge wrongdoing.
 - b. Respondents admit the maximum level of culpability for all violations in the CPAN.
 - c. Respondents actively and timely contacted Staff to resolve the issue.
 - d. Respondents have subsequently corrected all violations in the CPAN.

- e. Respondent Fleet Logistics is a one car/one driver motor carrier business, which relies on repeat business from only a small group of regular customers.
- f. Respondents understand that a charter order is required even when providing transportation to a regular customer.
- g. Assessing the full CPAN amount would cause financial hardship on Respondents.
- h. Assessing Respondents a civil penalty of \$1,306.25 under the terms herein is sufficient motivation for Respondents to remain in compliance with the Public Utilities Laws and Commission Rules on a going-forward basis.

4. In consideration of Respondents' admission of liability, and for the reasons expressed above, Staff agrees reducing the amount of the civil penalty from \$2,612.50 to \$1,306.25 is appropriate and in the public interest. This \$1,306.25 settlement amount consists of a \$1,187.50 penalty, plus a ten-percent surcharge of \$118.75 pursuant to section 24-34-108, C.R.S.

5. Respondents shall pay the total amount of \$1,306.25 in two installments. The first installment of \$653.13 is due within 10 days of the Commission's final order approving this settlement agreement, and the balance of \$653.12 is due 30 days following the first installment's due date.

6. If Respondents fail to make any of the installment payments when due, Respondents shall be liable for the full civil penalty amount of \$2,612.50 less any payments made, which amount will be due immediately.

7. Respondent further agrees that if, during any investigation(s) conducted by Staff within twelve months of the date of a Commission final order in this Docket,

the Commission finds any violations of rules or statutes the same or of a similar nature as any of the violations for which Respondent has admitted liability, Respondent shall be liable for the full civil penalty, less payments made. In this event, the remaining full civil penalty will be due immediately. Respondent and Staff agree the specific intent of this provision is to prevent further violations of the Public Utilities Laws and Commission Rules.

8. All matters that were raised or could have been raised in this Docket relating to the issues specifically identified and addressed herein have been resolved by this Agreement. This Agreement may be executed in counterparts, each of which when taken together shall constitute the entire Agreement of the Parties, and no further modification of this Agreement is allowed, except in writing by the parties, and further agreed to in an order issued by the Commission.

9. Respondents' failure to complete its payment obligations as set forth in this Agreement shall also be deemed a waiver by Respondents of any and all rights to file exceptions and/or a request for rehearing, reargument, and reconsideration, or to file any other form of appeal.

10. In the event that this Agreement is modified or not approved in its entirety, either Party, at that Party's option, may withdraw from this Agreement by filing a notice with the Commission in this Docket within seven days of entry of such Order. In that event, this Agreement shall be void and this matter shall be set for hearing.

Executed this 12th day of March, 2014.

STAFF OF THE COLORADO
PUBLIC UTILITIES COMMISSION

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