

Decision No. R14-0477

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 14F-0313EC

DURANGO TAXI LLC,

COMPLAINANT,

V.

ANIMAS TRANSPORTATION,

RESPONDENT.

**RECOMMENDED DECISION OF
ADMINISTRATIVE LAW JUDGE
MELODY MIRBABA
ACCEPTING WITHDRAWAL OF
COMPLAINT AND CLOSING PROCEEDING**

Mailed Date: May 12, 2014

I. **STATEMENT, FINDINGS, AND CONCLUSIONS**

1. On April 7, 2014, Durango Taxi LLC (Complainant), filed a formal Complaint (Complaint) with the Commission against Animas Transportation (Animas or Respondent).
2. On April 10, 2014, Commission Director Doug Dean issued an Order to Answer or Satisfy.
3. During its weekly meeting held April 16, 2014, the Commission referred this matter to an Administrative Law Judge (ALJ) for disposition.
4. By Decision No. R14-0419-I issued April 23, 2014, the ALJ ordered Commission administrative staff to serve the Complaint and all attachments upon Animas. In the same Decision, the ALJ ordered that Animas shall answer or satisfy the Complaint within 20 days of

the date the Complaint was served upon it. In addition, the Decision found that, based upon the information Complainant input into the Commission's e-filing system when initiating this action, and Rule 1211(c) of the Rules of Practice and Procedure, 4 *Code of Colorado Regulations* (CCR) 723-1, that Animas is the only Respondent in this proceeding.

5. On May 5, 2014, an "Answer to Formal Complaint" (Answer) was filed on behalf of Animas. The Answer is a letter signed by Mr. Don Tunick. In the Answer, Mr. Tunick states that on April 1, 2014, he purchased Animas from Sandra and John Nodolny and that "[w]e are a new company, with a new P.U.C. number." Mr. Tunick is not a named Respondent in this proceeding.

6. On May 6, 2014, Mr. Tunick's counsel filed a "Notice of E-Filing Error Pursuant to Commission Rule 1211(d)" (Notice). The Notice indicates that the Answer was intended to be filed on behalf of Mr. Tunick, not Animas. The Notice seeks to withdraw the Answer, on the grounds that since Mr. Tunick is not a Respondent in this proceeding, he is not required to answer the Complaint.

7. On May 8, 2014, Complainant filed a "Motion to Withdraw Formal Complaint" (Motion). The Motion states that Complainant wishes to withdraw the Complaint because Animas is no longer operating under the same management as it was at the time of the allegations in the Complaint.

8. Given the nature of the relief sought, the ALJ shall *sua sponte* waive the remaining response time to the Motion pursuant to the authority provided in Rule 1400(b) 4 CCR 723-1.

9. The ALJ finds that Complainant has shown good cause to withdraw its Complaint. The ALJ shall grant the Motion; the Complaint shall be withdrawn and this proceeding shall be closed.

10. Pursuant to § 40-6-109, C.R.S., the Administrative Law Judge transmits the record and recommends that the Commission enter the following order.

II. ORDER

A. The Commission Orders That:

1. The remaining response time to the “Motion to Withdraw Formal Complaint” (Motion) filed by Durango Taxi LLC is waived.

2. The Motion is granted.

3. The Complaint filed by Durango Taxi LLC in this proceeding is deemed withdrawn.

4. Proceeding No. 14F-313EC is closed.

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

(S E A L)



THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

MELODY MIRBABA

Administrative Law Judge

ATTEST: A TRUE COPY

A handwritten signature in cursive script that reads "Doug Dean".

Doug Dean,
Director