

Decision No. R25-0691-I

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 25F-0178CP

ROMAN LYSENKO,

COMPLAINANT,

V.

DTR OPERATIONS, LLC DOING BUSINESS AS ROCKY MOUNTAIN EVENT SHUTTLES,

RESPONDENT.

**INTERIM DECISION DENYING MOTION TO QUASH
AND SETTING PROCEDURAL DEADLINE**

Issued Date: September 25, 2025

I. SUMMARY AND STATEMENT

1. This Decision denies the Motion to Quash filed by Ace Express Coaches, LLC (“Ace”) and sets a new deadline for the parties to file witness lists and exhibits.

II. RELEVANT PROCEDURAL BACKGROUND

2. On April 25, 2025, Roman Lysenko (“Complainant”) initiated this matter by filing a Complaint with the Public Utilities Commission (“PUC” or “Commission”) against DTR Operations, LLC doing business as Rocky Mountain Event Shuttles (“Respondent”).

3. On August 6, 2025, the Administrative Law Judge (“ALJ”) issued Decision No. R25-0569-I that set the Proceeding for hearing on August 28, 2025 and set forth deadlines for the parties to file their witness lists and exchange exhibits.

4. On August 6, 2025, Complainant requested that the ALJ issue two subpoenas: one for Ace to testify at the hearing and one for Respondent to testify at the hearing.

5. On August 26, 2025, Respondent filed its “Motion to Vacate Hearing and Request for Leave to File Motion to Compel Discovery Responses and to Compel Further Responses by [Respondent]” (“Respondent’s Motion”).

6. On August 26, 2025, Complainant filed a Response to Respondent’s Motion.

7. By Decision No. R25-0621-I, issued August 27, 2025, the ALJ reset the hearing for October 23, 2025. The ALJ noted that the remainder of Respondent’s requested relief in its Motion would be addressed by a separate decision.

8. On August 28, 2025, Ace filed a Motion to Quash Subpoena (“Motion to Quash”).

9. On August 29, 2025, Complainant filed a Response to Motion to Quash (“Response”).

III. MOTION TO QUASH

A. Legal Standard

10. With a few exceptions, the Commission has incorporated by reference the 2012 version of Rules 26-37 of the Colorado Rules of Civil Procedure (“CRCP”) that govern discovery.”¹ CRCP 26(b)(1) allows parties to “obtain discovery regarding any matter, not privileged, that is relevant to the claim or defense of any party” and a court may order discovery of any matter relevant to the subject matter involved for good cause.² Such relevant information need not be admissible as long as the discovery “appears reasonably calculated to lead to the

¹ Rules 1004(b) and 1405(a)(I), 4 *Code of Colorado Regulations* (“CCR”) 723-1.

² CRCP 26(b)(1) (2012).

discovery of admissible evidence.”³ Based on the foregoing, the scope of discovery is “very broad.”⁴

B. Motion to Quash

11. Complainant alleges, among other things, that Respondent contracts with Ace and that Ace is Respondent’s transportation provider.⁵ Respondent denies this.⁶ Complainant obtained a subpoena for a representative from Ace testify at the hearing.

12. Ace moves to quash the subpoena for it to testify at hearing on a variety of grounds, including that good cause for the issuance of the subpoena was not shown; that Ace has no knowledge of Respondent’s⁷ internal workings, Respondent’s relationships with its customers, or how Respondent charges its customers;⁸ and because Complainant does not have standing to request a subpoena.⁹

13. In support of its Motion to Quash, Ace claims that neither the Complaint nor the affidavit for good cause “...show that Ace has knowledge that will be useful in determining the outcome of this proceeding.”¹⁰ Ace then proceeds to affirm that: it enters into contracts with Respondent; Ace provides Respondent with invoices; Respondent pays Ace on a per-bus basis; Ace possesses knowledge about the service it provides to Respondent; and Ace understands the destination of the buses Respondent has hired it to provide, as well as the pick-up points, departure and arrival times, routes, and other information related to its contract with Respondent.¹¹

³ *Id.*

⁴ *Corbetta v. Albertson's, Inc.*, 975 P.2d 718, 720 (Colo. 1999).

⁵ Complaint at pp. 3-4.

⁶ *See* Answer at p. 2.

⁷ In its Motion to Quash, Ace consistently refers to another company “DRT.” The ALJ interprets that to mean Respondent DTR Operations, LLC doing business as Rocky Mountain Event Shuttles.

⁸ Motion to Quash at p. 1.

⁹ *Id.* at p. 3.

¹⁰ *Id.* at p. 2.

¹¹ *Id.*

14. Ace alleges that Complainant's affidavit of good cause "fails to provide a foundation for the subpoena" and that Ace does not have intimate knowledge of facts relating to Respondent.¹² In support, Ace reiterates that its knowledge of Respondent's operations is limited to the contracts it has with Respondent.¹³ Ace further argues that CRCP 45 demonstrates that subpoenas of non-parties to proceedings "are to be avoided if possible" and that the sworn statement Ace provided with its Motion to Quash is a sufficient replacement to witness testimony.¹⁴

15. Ace also argues that Complainant does not have standing to request a subpoena in this Proceeding.¹⁵ In support, Ace claims that Complainant has not alleged a personal harm to a legally protected interest and therefore should not be able to proceed in his personal capacity.¹⁶

16. In response, Complainant argues that its subpoena should be upheld and that its affidavit of good cause was sufficient.¹⁷ In support, Complainant states that its affidavit of good cause "demonstrated that Ace possesses unique knowledge of Respondent's operations, including contract types, invoices, routes, and services provided to Respondent."¹⁸

17. Complainant also notes that the Respondent denied allegations in the Complaint that connected it to Ace.¹⁹ Complainant alleges that Ace must have a representative available at the hearing who can be subject to examination, and that the affidavit Ace provided is not a sufficient replacement for live testimony.²⁰

¹² *Id.*

¹³ *Id.*

¹⁴ *Id.* Of note, Ace appears to be reviewing the current version of CRCP 45, which is not applicable to this Proceeding.

¹⁵ *Id.* at p. 3.

¹⁶ *Id.*

¹⁷ Response at p. 2.

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ *Id.* at p. 3.

18. The ALJ will deny Ace's Motion to Quash. The ALJ concludes that Complainant adequately demonstrated good cause for issuance of the subpoena to Ace.²¹ Complainant has alleged, and Respondent has denied, that Ace has contractual relationships with Respondent in connection with Respondent's activities that Complainant has alleged are improper in the Complaint. The subpoena seeks testimony that is relevant to the subject matter in this Proceeding.²² For the reasons discussed, the ALJ finds good cause for the subpoena seeking a representative from Ace to testify as to those matters. In so finding, the ALJ draws no conclusions as to the scope of admissible testimony, which will be determined at hearing.

19. As to Ace's argument that Complainant does not have standing to request a subpoena, the ALJ finds that, as a party to this Proceeding, Complainant has standing to seek subpoenas.²³

IV. RESPONDENT'S MOTION

A. Motion and Response

20. In Decision No. R25-0621-I, the ALJ reset the hearing date. The ALJ did not make any findings related to Respondent's allegations relative to its discovery requests in its Motion and noted that the ALJ would issue a separate decision to address Respondent's other requests for relief. However, Respondent did not specifically request separate relief related to its discovery allegations. Instead, Respondent noted that it sought a later hearing date "pending resolution of the aforementioned discovery issues, which could require motions."²⁴ Moreover, notwithstanding the title of the pleading (which included "Request for Leave to File Motion to Compel Discovery

²¹ See, e.g., Decision No. R07-0850-I (issued October 9, 2007) in Proceeding No. 07A-003BP-EXT.

²² See CRCP 26(b)(1) (2012).

²³ See § 40-10.1-112(2), C.R.S., (any person may file a complaint and the complainant may request any relief that the Commission may grant).

²⁴ Respondent's Motion at p. 8.

Responses and to Compel Further Responses by [Respondent]”), Respondent does not seek leave to file a discovery motion in its prayer for relief.²⁵

21. There is no Commission rule that requires a party to obtain ALJ approval for filing a motion.²⁶ To date, no party has filed a motion relating to discovery issues. Accordingly, the ALJ makes no findings related to discovery in this Decision.

B. Revised Procedural Schedule

22. By Decision No. R25-0569-I, Complainant was required to file a list of the witnesses he intends to call during the hearing and to file a copy of the exhibits he intends to use as evidence during the hearing by August 13, 2025. Respondent was required to file a list of witnesses it intends to call during the hearing and to file a copy of the exhibits it intends to use as evidence during the hearing by August 25, 2025.

23. In light of the new hearing date, the ALJ will set a new deadline for both parties to file any additional witness lists and exhibits they intend to call or use as evidence at hearing. The ALJ will set a new deadline of October 15, 2025 for both Complainant and Respondent to file complete witness lists that include all witnesses they may call to testify and any exhibits they wish to offer at hearing. To be clear, if the parties choose to add any witnesses for hearing, the parties may not simply supplement any prior witness lists they have filed. Rather, their witness lists will replace any prior filed lists.

²⁵ *Id.*

²⁶ *See* 4 CCR 723-1 generally.

V. ORDER**A. It Is Ordered That:**

1. Ace Express Coaches, LLC's August 28, 2025 Motion to Quash Subpoena is denied, consistent with the above discussion.
2. Complainant Roman Lysenko ("Complainant") and Respondent DTR Operations, LLC doing business as Rocky Mountain Event Shuttles ("Respondent") must file a list of the witnesses they intend to call during the hearing and to file a copy of the exhibits they intend to use as evidence during the hearing (marked with exhibit numbers in the blocks set out in Decision No. R25-0569-I) by **October 15, 2025**, consistent with the above discussion. This deadline applies to new witnesses and exhibits only; a party is not required to re-file any witness lists or exhibits already filed in this Proceeding if the party is not adding any witnesses or exhibits to what it previously filed.
3. This Decision is effective immediately.

(S E A L)

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

KELLY A. ROSENBERG

Administrative Law Judge

ATTEST: A TRUE COPY

Rebecca E. White,
Director