

Decision No. R04-0032

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 03G-482CP

PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO,

COMPLAINANT,

V.

BOULDER SHUTTLE, LLC, D/B/A BOULDER AIRPORTER,

RESPONDENT.

**RECOMMENDED DECISION OF
ADMINISTRATIVE LAW JUDGE
WILLIAM J. FRITZEL
ACCEPTING STIPULATION OF
SETTLEMENT OF CIVIL PENALTY
ASSESSMENT NO. 28383**

Mailed Date: January 9, 2004

I. STATEMENT, FINDINGS, AND CONCLUSIONS

1. On October 30, 2003, Staff of the Public Utilities Commission (Staff) issued Civil Penalty Assessment Notice (CPAN) No. 28383 to Boulder Shuttle, LLC, doing business as Boulder Airporter (Respondent). Staff charged Respondent with 25 violations of 4 *Code of Colorado Regulations* (CCR) 723-15-2.

2. Rule 4 CCR 723-15-2-1 incorporates by reference regulations published in Title 21, Code of Federal Regulations (CFR) § 1308.11, revised as of April 1, 1999, and Title 49, CFR, Parts 40, 382, 383, 390, 391, 392, 393, 395, 396, and 399 and Appendix G to Subchapter B of Chapter III, revised as of October 1, 1998. The federal regulations that the Commission incorporates by reference in the Commission's Rules Regulating Safety for Motor Vehicle

Carriers and Establishing Civil Penalties alleged in CPAN No. 28383 are Parts 382-301(a) and 396.11(c)(1). The violations are alleged to have occurred between August 1, 2003 and August 29, 2003. Each violation carries a penalty of \$200 for a total penalty of \$5,000.

3. The Commission scheduled a hearing for January 12, 2004.

4. On December 30, 2003, Staff and Respondent filed a Stipulation of Settlement of Civil Penalty Assessment No. 28383 and Motion to Vacate Hearing and Close Docket No. 03G-482CP. The Stipulation states that Respondent admits the violations charged. Respondent has taken measures to ensure immediate compliance with the Commission's Rules Regulating Safety for Motor Vehicle Carriers and Establishing Civil Penalties, and has taken steps to address the violations cited in CPAN No. 28383. Staff agrees to accept a reduced penalty of \$2,500 in satisfaction of the CPAN.

5. The Stipulation states that the Commission Rule of 4 CCR 723-15-3 cited in CPAN No. 28383 is in error and should be 4 CCR 723-15-2. Staff also states that the citation of Part 391.11(c)(1) of Title 49, CFR is in error and should read 396-11(c)(1). Staff therefore in effect requests an amendment to correct the typos on the CPAN. The amendment is granted.

6. It is found that the Stipulation of Settlement of Civil Penalty Assessment No. 28383 is just and in the public interest. The Stipulation of Settlement should be accepted.

II. ORDER

A. The Commission Orders That:

1. The Stipulation of Settlement of Civil Penalty Assessment Notice No. 28383, attached to and made a part of this Recommended Decision is accepted.

2. Respondent Boulder Shuttle, LLC, doing business as Boulder Airporter shall remit to the Commission the amount of \$2,500 within ten calendar days of the effective date of this Recommended Decision approving the Stipulation.

3. The hearing currently scheduled for January 12, 2004 is vacated.

4. 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.

5. 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.

6. If exceptions to this 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