

Decision No. R23-0511-I

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 23F-0311CP

TIPSY VELO LLC DOING BUSINESS AS TIPSY VOYAGE,
COMPLAINANT,

V.

ABSOLUTE PRESTIGE LIMOUSINE II LLC, AND SHIRLEEN HUTTON,
RESPONDENTS.

**INTERIM DECISION OF
ADMINISTRATIVE LAW JUDGE
G. HARRIS ADAMS
ESTABLISHING HEARING PROCEDURES AND
PROVIDING INSTRUCTIONS CONCERNING EXHIBITS
AND PARTICIPATING IN REMOTE HEARINGS**

Mailed Date: August 2, 2023

I. STATEMENT

A. Procedural Background

1. On June 8, 2023, Complainant Topsy Velo, LLC doing business as Topsy Voyage (Complainant or Topsy Voyage) filed a Formal Complaint (Complaint) against Absolute Prestige Limousine II, LLC, and Shirleen Hutton (collectively, Absolute Prestige Limousine or Respondent). The Complaint alleges that Respondent has performed no transportation services under its CPCN No. 55925 during the calendar year 2022; that Respondent's certificate is dormant if not abandoned; that any operations that may have been conducted in 2023 constitute a reactivation of dormant or abandoned authority without a showing of public need for such reactivation; that Respondent's Original Title Page of Passenger Tariff, Colorado PUC No. 1,

Absolute Prestige Limousine, effective August 3, 2018 is illegal and discriminatory; that the acts of Respondent have and continue to cause damage to Complainant and the public; and unless restrained immediately by the Commission, Respondent will cause irreparable destructive injury to the public and irreparable destructive competitive injury to Complainant in violation of the protection entitled to Complainant by the Doctrine of Regulated Monopoly.¹ The Complaint further alleges Respondent is in violation of 4 CCR 723-6-6205, 4 CCR 723-6-6005, 4 CCR 723-5-6016(d), 4 CCR 723-6-6202, 4 CCR 723-6-6205, 4 CCR 723-6-6201, 4 CCR 723-6-6202, 4 CCR 723-6-6205 and 4 CCR 723-6-6208.²

2. On June 12, 2023, the Commission issued its Order Setting Hearing and Notice of Hearing (Notice), which set this matter for hearing on August 21, 2023, before an Administrative Law Judge (ALJ). The Notice also stated that the ALJ would establish the place and manner in which the hearing would be held.

3. Also on June 12, 2023, the Commission issued its Order to Satisfy or Answer, which ordered Respondent to satisfy the matters in the complaint or to answer the complaint in writing within 20 days from service of the order.

4. On June 21, 2023, the Commission referred this proceeding to an ALJ for disposition by minute entry.

5. On July 10, 2023, the Answer and Response to Formal Complaint was filed by Respondent.

¹ Complaint at 2-8.

² *Id.*

B. Advisements

6. The parties are advised that this proceeding is governed by the Rules of Practice and Procedure found at 4 CCR 723-1. The ALJ expects the parties to comply with these rules. The rules are available on the Commission's website (<https://puc.colorado.gov/pucrules>) and in hard copy from the Commission.

7. Each party is specifically advised that all filings with the Commission must also be served upon all other parties in accordance with Rule 1205 of the Rules of Practice and Procedure, 4 CCR 723-1.

8. The Parties are also on notice that failure to appear at the scheduled evidentiary hearing may result in decisions adverse to their interests, including the assessment of penalties against Respondents.

C. Remote Evidentiary Hearing and Unified Numbering System for Hearing Exhibits

9. The evidentiary hearing scheduled for August 21, 2023 will be held remotely. This Decision and Attachments A and B provide important information and instructions to facilitate holding the remote hearing, which all parties must follow.

10. The procedures developed for the remote evidentiary hearing are intended to replicate, as practicable, evidence presentation as it occurs when parties and witnesses are present in the hearing room. For example, participating by videoconference allows parties and witnesses to view exhibits on the video-conference screen while the exhibits are being offered into evidence and witnesses testify about them.

11. The evidentiary hearing will be conducted via videoconference using the Zoom platform. Attachment A to this Decision provides information about the Zoom platform and how to use Zoom to participate in the remote hearing. To minimize the potential that the remote hearing may be disrupted by non-participants, the link and meeting ID, or access code, to attend the hearing will be provided to the parties by email approximately one week before the hearing, and the parties and witnesses will be prohibited from distributing that information to anyone not participating in the hearing.

12. At the hearing, the parties may call witnesses, present evidence, and make arguments in support of their position. Evidence includes documentary exhibits, testimony, and other tangible items that a party wishes the ALJ to consider in reaching a decision as to the allegations in this proceeding. Given that the hearing will accommodate remote participation by video conference, exhibits must be presented electronically.

13. The Public Utilities Commission Administrative Hearings Section uses box.com to receive and manage exhibits that are first presented in this type of remote evidentiary hearing.³ As such, it is essential that the parties ensure they are able to access and use box.com prior to the evidentiary hearing. To this end, the parties will be provided box.com links and instructions to: (a) upload exhibits for use during the hearing; and (b) download exhibits once they are presented during the hearing.

14. Each party must: (a) pre-mark all hearing exhibits with a hearing exhibit number within their assigned number block before uploading the exhibits to the party's designated box.com

³ Box.com is a web-based document sharing service. When exhibits are first presented during the hearing, the Commission will receive them electronically from each party's box.com folder for display.

folder; (b) sequentially page-number each page of exhibits longer than two pages, with the first page number as page 1, regardless of content before uploading the exhibits to the party's designated box.com folder; and (c) upload all pre-marked exhibits into each party's respective designated box.com folder prior to presenting them during the hearing.

15. Attachment B outlines procedures and requirements for marking and formatting exhibits aimed at facilitating efficient and smooth electronic evidence presentations at the remote hearing. It is very important that the parties carefully review and follow all requirements in this Decision and Attachments A and B.

16. In order to efficiently organize the numbering and preparation of exhibits for the hearing, the parties shall use a unified numbering system for all hearing exhibits. Blocks of hearing exhibit numbers are assigned as follows:

- Complainant is assigned hearing exhibit numbers 100 to 199; and
- Respondent is assigned hearing exhibit numbers 200 to 299.

D. Additional Procedural Notices

17. The parties are on notice that the ALJ will retain the discretion to change the method by which the hearing will be conducted.

18. Additional procedural requirements may be addressed in future Interim Decisions.

E. Informal Video-Conference Practice Session

19. The ALJ will hold an informal practice video-conference session if requested by any Party to give the Parties an additional opportunity to practice using Zoom and box.com before the hearing.

20. The Parties may contact the Commission Legal Assistant by email at casey.federico@state.co.us or stephanie.kunkel@state.co.us to schedule an informal practice video-conference session.

21. The Parties will receive information and a link to participate in the informal practice session by email.

II. **ORDER**

A. **It Is Ordered That:**

1. The evidentiary hearing scheduled for August 21, 2023 at 9:00 a.m. will be held remotely via Zoom.⁴

2. No one should appear in-person for the evidentiary hearing.

3. The parties and witnesses in the evidentiary hearing may not distribute the Zoom link and access code to anyone not participating in the remote evidentiary hearing.

4. All participants in the hearing must comply with the requirements in Attachments A and B to this Decision, which are incorporated herein.

5. **Video-Conference Participation.** Counsel for the parties, parties, and witnesses, as applicable, may attend the evidentiary hearing by videoconference using the Zoom platform.

6. **Evidence Presentation at the Evidentiary Hearing.** Because the participation in the evidentiary hearing will be via videoconference, all evidence must be presented electronically. Each party is responsible for ensuring that they and their respective witnesses: (a) have access to

⁴ Instructions for using Zoom platform are provided in Attachment A to this Decision.

all pre-filed exhibits; and (b) can download and view documents available from box.com during the hearing.⁵

7. The Administrative Law Judge will hold an informal Zoom practice session upon request.

8. The parties shall comply with the requirements established in this Interim Decision and shall make the filings as required by the adopted procedural schedule.

9. This Decision shall be effective immediately.

(S E A L)

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO



G. HARRIS ADAMS

Administrative Law Judge

ATTEST: A TRUE COPY

A handwritten signature in cursive script that reads "Rebecca E. White".

Rebecca E. White,
Director

⁵ Instructions for using Box.com platform are provided in Attachment B to this Decision.