

Decision No. R04-0841

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO**

DOCKET NO. 04G-256EC

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COLORADO PUBLIC UTILITIES COMMISSION,

COMPLAINANT,

V.

ROBERT TURNER, DOING BUSINESS AS WE-FETCH,

RESPONDENT.

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**RECOMMENDED DECISION OF  
ADMINISTRATIVE LAW JUDGE  
WILLIAM J. FRITZEL  
ASSESSING CIVIL PENALTY**

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Mailed Date: July 22, 2004

Appearances:

John P. Opeka, Staff of the Colorado Public Utilities Commission.

**I. STATEMENT**

1. On April 23, 2004, Staff of the Colorado Public Utilities Commission (Staff) issued Civil Penalty Assessment Notice (CPAN) No. 28579, Exhibit No. 4, to Robert Turner, doing business as We-Fetch (Respondent). Staff charged Respondent with one violation of offering transportation service by motor vehicle to the public for compensation without being registered with the Colorado Public Utilities Commission contrary to § 40-16-103, C.R.S., on January 21, 2004. The violation carries a civil penalty of \$1,100.

2. A hearing was scheduled for July 12, 2004. Proper notice was given to all the parties of record.

3. The hearing was called as scheduled. John P. Opeka of Staff appeared ready to proceed. Respondent did not appear. The matter proceeded to hearing. Testimony was received from John P. Opeka and Exhibit Nos. 1 through 5 were marked for identification and admitted into evidence. At the conclusion of the hearing, the matter was taken under advisement.

4. Under the provisions of § 40-6-109, C.R.S., the record and exhibits of the proceeding and a written recommended decision are transmitted to the Commission.

## **II. FINDINGS OF FACT AND CONCLUSIONS OF LAW**

5. On or about July 24, 2003, a jurisdictional common carrier contacted Mr. Opeka advising that Respondent was offering transportation service for hire in the Grand Junction area without being registered with the Commission.

6. Based upon the information, Mr. Opeka commenced an investigation of the matter. In addition to the flier advertising the service (Exhibit No. 1), Mr. Opeka located in the Grand Junction telephone directory Respondent's telephone number and business address in Clifton, Colorado. Mr. Opeka contacted Respondent and advised that in order to offer and provide transportation services as a property carrier in the State of Colorado for compensation, Respondent must be registered as a property carrier and comply with the insurance and safety requirements of the Commission under the provisions of § 40-16-103, C.R.S. In addition to the contact, Mr. Opeka mailed a letter dated July 28, 2003 to Respondent advising that registration was necessary under Colorado law. (Exhibit No. 3)

7. Mr. Opeka testified that following the contact, Respondent failed to register with the Commission as a property carrier.

8. In January 2004, Mr. Opeka called Respondent at the number listed in the Grand Junction telephone book (Exhibit No. 2). Mr. Opeka asked Respondent the rate to transport

documents in the Grand Junction area. Respondent informed Mr. Opeka that the documents could be delivered from Clifton to Grand Junction for a charge of \$20.

9. Having once again determined that Respondent had not registered as a property carrier with the Public Utilities Commission, Mr. Opeka issued CPAN No. 28579 charging Respondent with a violation of § 40-16-103, C.R.S., for a total penalty of \$1,100. Respondent was served with the CPAN on May 17, 2004 (Exhibit No. 5).

10. The uncontroverted evidence of record establishes that Respondent offered transportation of property by motor vehicle for compensation without being registered with the Colorado Public Utilities Commission as required by § 40-16-103, C.R.S. Respondent is found to be in violation of one count of § 40-16-103, C.R.S.

11. Under the provisions of § 40-6-109(2), C.R.S., it is recommended the Commission enter the following order.

### **III. ORDER**

#### **A. The Commission Orders That:**

1. Robert Turner, doing business as We-Fetch is found to be in violation of § 40-16-103, C.R.S., as charged in Civil Penalty Assessment Notice No. 28579, and is assessed a civil penalty in the amount of \$1,100 as authorized by § 40-7-113(f), C.R.S.

2. Robert Turner, doing business as We-Fetch shall remit to the Colorado Public Utilities Commission the amount of \$1,100 within 30 days of the effective date of this Recommended Decision.

3. 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.

4. 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.

5. 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

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Administrative Law Judge

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