

Decision No. R04-0990-I

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 04G-245EC

PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO,

COMPLAINANT,

V.

MICHAEL FORTUNA, DOING BUSINESS AS A COMFORTABLE RIDE,

RESPONDENT.

**INTERIM ORDER OF
ADMINISTRATIVE LAW JUDGE
DALE E. ISLEY
GRANTING MOTION
FOR TELEPHONE TESTIMONY**

Mailed Date: August 23, 2004

I. STATEMENT

1. On August 10, 2004, the Staff of the Colorado Public Utilities Commission (Staff) filed a Motion for Presentation of Testimony by Telephone (Motion) in the captioned matter. The Motion requests that Staff be allowed to present the testimony of one its witnesses, Ms. Fazio, via telephone.

2. On August 11, 2004, response time to the Motion was shortened to August 17, 2004. *See*, Decision No. R04-0943-I.

3. A review of the Commission's files reveals that the Respondent, Michael Fortuna, doing business as A Comfortable Ride (Fortuna), did not respond to the Motion. Therefore, the

Motion is unopposed and it is presumed that Fortuna has no objection to the relief requested therein.

4. Although the Commission does not have a specific rule concerning the receipt of testimony via telephone, it has authorized that procedure upon the motion of a party when the factors set forth in Rule 43(i)(3) of the Colorado Rules of Civil Procedure indicate that it is appropriate to do so. Application of those factors to the situation at hand indicates that it would be beneficial to allow Ms. Fazio to testify via telephone and that the adoption of such a procedure will not prejudice Fortuna. Therefore, the Motion will be granted.

II. ORDER

A. It Is Ordered That:

1. The Motion for Presentation of Testimony by Telephone filed by the Staff of the Colorado Public Utilities Commission is granted.

2. This Order shall be effective immediately.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Administrative Law Judge

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