

Decision No. R20-0051-I

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 19G-0715CP

COLORADO PUBLIC UTILITIES COMMISSION,

COMPLAINANT,

V.

JONTAY BYRON THOMAS D.B.A. HALF PRICE TAXI,

RESPONDENT.

**INTERIM DECISION OF
ADMINISTRATIVE LAW JUDGE
CONOR F. FARLEY
GRANTING MOTION TO AMEND CPAN, ESTABLISHING
PROCEDURAL SCHEDULE, AND SETTING HEARING**

Mailed Date: January 23, 2020

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I. STATEMENT**A. Procedural history**

1. On December 13, 2019, the Colorado Public Utilities Commission (Commission) filed Civil Penalty Assessment or Notice of Complaint to Appear (CPAN) No. 125283, which alleges one violation by Jontay Byron Thomas, doing business as Half Price Taxi (Half Price Taxi), each of §§ 40-10.1.107(1) and 202(1)(a), C.R.S., on December 11, 2019. The underlying factual basis for each count of the CPAN is that Half Price Taxi operated or offered to operate as a contract taxi carrier without first obtaining an authority from Commission and maintaining and filing evidence of financial responsibility with the Commission. CPAN No. 125283 states that the civil penalty assessed for the alleged violations is \$12,100, plus an additional 15 percent surcharge, for a total of \$13,915.00, but that if Half Price Taxi pays the civil penalty within ten calendar days of its receipt of the CPAN, the civil penalty will be reduced to \$6,957.50. Finally, the CPAN states that, if the Commission does not receive payment within ten days, the CPAN will convert into a Notice of Complaint to Appear and a hearing will be scheduled at which the Commission Staff will seek the “Total Amount” of \$13,915.00.¹ The CPAN also states that the Commission may order Half Price Taxi to cease and desist from violating statutes and Commission rules.²

2. The CPAN states that the Commission personally served the CPAN on December 13, 2019.

3. Half Price Taxi has not paid any amount, much less the reduced civil penalty amount or the total civil penalty amount, of the CPAN.

¹ CPAN No. 125283 at 3.

² *Id.* at 1, 3.

4. On January 2, 2020, the Commission referred this proceeding to an Administrative Law Judge (ALJ) for disposition. The proceeding was subsequently assigned to the undersigned ALJ.

5. On January 6, 2020, counsel for Trial Staff of the Commission (Staff) entered an appearance in this proceeding. On the same day, Staff filed a Motion to Amend CPAN (Motion to Amend) to change the second count to specify that Half Price Taxi allegedly violated § 40-10.1-201(1), C.R.S. (not § 40-10.1-202(1)(a), C.R.S.) by operating or offering to operate as a common carrier (not a contract carrier).

B. Motion to Amend

6. Staff has stated good cause to grant the Motion to Amend. Accordingly, the Motion to Amend shall be granted. The revised CPAN attached to the Motion to Amend shall be the operative CPAN in this proceeding.

C. Hearing

7. The hearing in this matter shall be scheduled for March 12, 2020.

D. Procedural Schedule

8. To facilitate the orderly and efficient litigation of this proceeding, the ALJ finds and concludes that a procedural schedule should be adopted, so that each party will have an opportunity prior to the hearing to review a summary of the anticipated testimony of each witness the other party intends to call at the hearing, and to review copies of the exhibits the other party will present at the hearing. Therefore, this Decision will order the parties to file, and to serve on each other, a list of witnesses, a summary of the testimony of each witness, and copies of the exhibits the filing party intends to present at the hearing.

9. On or before February 7, 2020, Staff will be ordered to file and serve on Half Price Taxi: (a) a list that identifies the witnesses Staff intends to call at the hearing, the last known address and telephone number of each witness, and a summary of the anticipated testimony of each witness; and (b) copies of the exhibits Staff will present at the hearing.

10. On or before February 28, 2020, Half Price Taxi will be ordered to file and serve on Staff: (a) a list that identifies the witnesses Half Price Taxi intends to call at the hearing, the last known address and telephone number of each witness, and a summary of the anticipated testimony of each witness; and (b) copies of the exhibits Half Price Taxi will present at the hearing.

11. As referenced in this Decision, serving a party with any document (*e.g.*, witness and exhibit lists and exhibits) means that the party is required to give the document to the other party or parties to the proceeding. Service must be accomplished pursuant to Rule 1205 of the Commission's Rules of Practice and Procedure.³ The Commission's Rules (including Rule 1205) are available on the Commission's website and in hard copy from the Commission.

12. All parties must establish through a certificate of service that they have served a filed document on all other parties in the proceeding. A certificate of service is a statement indicating how and when a document was served on the other party (*e.g.*, the filing was served by placing the document in the United States mail, first class postage-prepaid to an identified address on an identified date).⁴

13. All exhibits shall be identified by sequential numbers (*e.g.*, Exhibit 1, Exhibit 2, and Exhibit 3). Each exhibit shall include the following information: exhibit number,

³ 4 *Code of Colorado Regulations* (CCR) 723-1.

⁴ See Rule 1205(e), 4 CCR 723-1.

proceeding number, name of the witness who will testify to the exhibit's foundation, and the date of the hearing. The parties shall work together to ensure that there are no gaps in the numbering of the exhibits.

14. Each party shall bring to the hearing an original and three copies of each exhibit it intends to introduce at the hearing. The filing of an exhibit with the Commission does not, by itself, admit an exhibit into the evidentiary record of the hearing.

15. If any exhibit is longer than two pages, the party offering the exhibit shall sequentially number each page of the exhibit.

16. The parties are on notice that: (a) any witness may be prohibited from testifying, except in rebuttal, unless that witness is identified on the list of witnesses filed and served as required herein; (b) failure to provide an accurate description of the anticipated testimony of a witness may also result in an order prohibiting such witness from testifying; and (c) any exhibit may not be received in evidence, except in rebuttal, unless filed and served as required herein.

E. Additional Advisements

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

II. ORDER

A. It Is Ordered That:

1. The Motion to Amend CPAN filed by Trial Staff of the Commission (Staff) on January 6, 2020 is granted consistent with the discussion above.

2. An evidentiary hearing in this proceeding is scheduled as follows:

DATE: March 12, 2020

TIME: 9:00 a.m.

PLACE: Commission Hearing Room B
1560 Broadway, 2nd Floor
Denver, Colorado

3. On or before February 7, 2020, Staff will be ordered to file and serve on Jontay Byron Thomas, doing business as Half Price Taxi (Half Price Taxi),: (a) a list that identifies the witnesses Staff intends to call at the hearing, the last known address and telephone number of each witness, and a summary of the anticipated testimony of each witness; and (b) copies of the exhibits Staff will present at the hearing.

4. On or before February 28, 2020, Half Price Taxi will be ordered to file and serve on Staff: (a) a list that identifies the witnesses Half Price Taxi intends to call at the hearing, the last known address and telephone number of each witness, and a summary of the anticipated testimony of each witness; and (b) copies of exhibits Half Price Taxi will present at the hearing.

5. This Decision is effective immediately.

(S E A L)



THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

CONOR F. FARLEY

Administrative Law Judge

ATTEST: A TRUE COPY

A handwritten signature in cursive script that reads "Doug Dean".

Doug Dean,
Director