

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

Docket No. 08G-153EC
Civil Penalty Assessment Notice No. 87269

PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO,

Complainant,

v.

DENVER COACH, INC.

Respondent.

STIPULATION AND SETTLEMENT AGREEMENT

Staff of the Public Utilities Commission (Staff) and Respondent Denver Coach, Inc. (Respondent) (collectively the "Parties") enter into this Stipulation and Settlement Agreement (Agreement) in the above-referenced docket as a complete and final resolution of all issues.

Background

1. On April 24, 2008, the Commission served Respondent Civil Penalty Assessment Notice No. 87269 (the "CPAN") by certified mail seeking civil penalties of \$1,100 (or \$550 if paid within 10 days). The CPAN alleged Respondent failed to have vehicles periodically inspected as required by Commission Rule 4 CCR 723-6-6102(a)(I) and 49 CFR Part 396.17(a). The violation date was April 22, 2008.

2. On May 16, 2008, the undersigned counsel for Staff entered his appearance on behalf of Staff.

3. The Commission set hearing in this matter for July 10, 2008, which hearing was vacated and rescheduled for August 7, 2008 by Decision No. R08-0698-I.

4. Prior to hearing, the Parties reached a comprehensive settlement in principle and the undersigned counsel for Staff and Mr. Michael Jorstad, owner of Respondent, presented by telephone an oral unopposed motion to Administrative Law Judge (ALJ) G. Harris Adams to vacate the August 7, 2008 hearing. This motion was granted by Decision No. R08-0818-I.

5. The Agreement herein has been reached in the spirit of compromise and in light of the uncertainties of trial. The Agreement has also been reached to avoid the costly expense of litigation. The Parties note that the Agreement promotes administrative efficiency by avoiding the time and expense that would be necessarily devoted to hearing this matter. Lastly, the Parties acknowledge that this Agreement will not have precedential effect on any other Commission matters. *See Colorado Ute Elec. Ass'n, Inc. v. PUC*, 602 P.2d 861, 865 (Colo. 1979); *B & M Serv., Inc. v. PUC*, 429 P.2d 293, 296 (Colo. 1967).

6. The Parties submit the public interest is served by assessing Respondent a reduced civil penalty of \$600 under the terms herein. In reducing the penalty, the Parties considered the following mitigating factors:

- a. Respondent acknowledges wrongdoing, has taken corrective action and has expressed a commitment to maintain compliance with the Public Utilities Laws and Commission Rules on a going-forward basis.
- b. Staff is satisfied that assessing Respondent a civil penalty of \$600 under the terms herein is sufficient to motivate Respondent to remain compliant with the Public Utilities Laws and Commission Rules on a going-forward basis.

Settlement Agreement

7. Staff and Respondent hereby stipulate and agree as follows:

- a. Respondent admits liability to the 1 violation in the CPAN.
- b. In consideration of Respondent's admission of liability in subparagraph 7(a), and for the reasons expressed in paragraphs 5 and 6, Staff agrees to reduce the amount of the civil penalty from \$1,100

to \$600, with the remaining \$500 permanently suspended upon compliance with the payment plan in 7(c) below.

- c. Respondent agrees to pay \$600 to the Colorado Public Utilities Commission in two (2) installments as follows: \$300 within ten (10) days after the Commission's approval of this Agreement becomes final and \$300 thirty (30) days thereafter.
- d. In the event Respondent fails to comply with the payment plan described in 7(c) above, then the entire amount of \$1100, less any amount paid, will be due and payable immediately.

8. In the event this Agreement is modified or not approved in its entirety, either Staff or Respondent, at that party's option, may withdraw from this Agreement by filing a notice with the Commission in this docket within seven (7) days of entry of such Order. In that event, this matter shall be set for hearing.

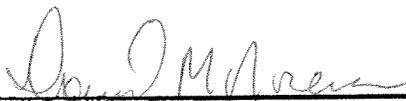
EXECUTED this 7th day of August 2008.

STAFF OF THE COLORADO
PUBLIC UTILITIES COMMISSION

approved as to form:

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