

Decision No. C14-0077

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 13G-1146CP

COLORADO PUBLIC UTILITIES COMMISSION,

COMPLAINANT,

V.

MARKETING SERVICES, INC. OF PUEBLO DOING BUSINESS AS ADVENTURES OUT WEST,

RESPONDENT.

DECISION DENYING EXCEPTIONS

Mailed Date: January 21, 2014

Adopted Date: January 15, 2014

I. BY THE COMMISSION

A. Statement

1. This matter comes before the Commission for consideration of Exceptions filed on December 13, 2013 to Recommended Decision R13-1513 by Marketing Services, Inc. of Pueblo, doing business as Adventures Out West (Respondent).

2. On October 24, 2013, Respondent was issued a Civil Penalty Assessment Notice (CPAN) for violating Commission Rule 6105(g)(I) of the *Rules Regulating Transportation by Motor Vehicle*, 4 *Code of Colorado Regulations* 723-6. This rule requires passenger carriers to submit a set of a driver's fingerprints to the Commission within ten days of the driver contracting or being employed to drive for the passenger carrier. The cost for the violation plus a 10 percent surcharge was \$302.50. The alleged violation occurred on October 17, 2013.

3. After being served with the CPAN on October 24, 2013 via certified mail, Respondent had the option to pay 50 percent of the entire assessment (\$151.25) within ten days and acknowledge liability for all the violations. The CPAN contained the Commission's address where such payment could be sent.

4. Respondent did not pay within ten days. The CPAN was referred to Administrative Law Judge (ALJ) G. Harris Adams by minute entry on November 26, 2013.

5. On December 2, 2013, ALJ Adams issued an interim decision setting a hearing and providing notice that the hearing had been set. On December 4, 2013, a check for \$302.50 was received at the Commission from Respondent. On December 9, 2013, ALJ Adams issued Recommended Decision No. R13-1513 accepting the penalty payment and closing the proceeding.

6. On December 13, 2013, Respondent filed apparent Exceptions to the Recommended Decision. The Exceptions consist solely of a check in the amount of \$151.25 and an envelope addressed to the Commission at a P.O. Box in Denver, which was returned as undeliverable. Respondent is apparently attempting to show that Respondent attempted to pay the reduced amount within the ten days.

7. We have reviewed the Commission files in this matter. Respondent does not state good cause to revise the Recommended Decision. Respondent does not give an explanation for why Respondent used the incorrect address, a P.O. Box, instead of the Commission's actual address. Furthermore, Respondent could have made a filing in the proceeding bringing the matter to the Commission's attention or the ALJ's attention at any point before a Decision was issued closing the proceeding. Instead Respondent paid in full and waited until after the Recommended Decision closing the proceeding had been issued before filing these Exceptions.

II. ORDER**A. The Commission Orders That:**

1. The Exceptions to Recommended Decision No. R13-1513 filed by Respondent Marketing Services, Inc. of Pueblo, doing business as Adventures Out West are denied, consistent with the discussion in this Decision.

2. The 20-day period provided for in § 40-6-114, C.R.S., within which to file applications for rehearing, reargument, or reconsideration, begins on the first day following the effective date of this Decision.

3. This Decision is effective upon its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
January 15, 2014.**

(S E A L)



ATTEST: A TRUE COPY

Doug Dean,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

JOSHUA B. EPEL

PAMELA J. PATTON

GLENN A. VAAD

Commissioners