

Decision No. C14-0196

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 13C-1383EC

IN THE MATTER OF ALLEGED VIOLATIONS OF COLORADO REVISED STATUTES AND
COMMISSION RULES RELATING TO THE NON-PAYMENT OF THE CIVIL PENALTIES
ASSESSED TO HUMMERS OF VAIL, INC., OWNER OF LUXURY LIMOUSINE
REGISTRATION NO. LL-01417.

**DECISION DENYING EXCEPTIONS TO
RECOMMENDED DECISION NO. R14-0001**

Mailed Date: February 24, 2014

Adopted Date: February 19, 2014

I. BY THE COMMISSION

A. Statement

1. This matter comes before the Commission for consideration of the exceptions to Recommended Decision No. R14-0001 filed by Staff of the Colorado Public Utilities Commission (Staff) on January 22, 2014. Being fully advised in this matter and consistent with the discussion below, we deny the exceptions.

B. Background, Findings, and Conclusions

2. Proceeding No. 13C-1383EC was instituted by a Complaint and Notice of Hearing (Complaint) issued by the Commission Director on October 22, 2013, against Hummers of Vail Inc., doing business as Hummers of Vail, Vail Taxi Service, ECO Limo of Vail, Vail Luxury Limo, and Vans to Vail Valley (Respondent).

3. Respondent provides luxury limousine service in the Vail and Eagle County area under Luxury Limousine Registration No. LL-01417.

4. Staff, in the Complaint, advised the Respondent that it sought to permanently revoke Luxury Limousine Registration No. LL-01417, pursuant to § 40-10.1-112(1), C.R.S., for failure to comply with Commission Decision Nos. R13-0030 and C13-0352.¹ Respondent was also advised that a hearing regarding the complaint was scheduled to be held on December 13, 2013.

5. The hearing was held before an administrative law judge (ALJ) on December 13, 2013. Respondent did not appear at the hearing.

6. On January 2, 2014, the ALJ issued Decision No. R14-0001 (Decision). The ALJ in Ordering Paragraph No. 1 revoked Luxury Limousine Registration No. LL-01417 as of the effective date of the Decision. However, the ALJ in Ordering Paragraph No. 2 stated the revocation shall be void and the case dismissed if Respondent pays the total civil penalties assessed by Decision Nos. R13-0030 and C13-0352 on or before the effective date of the Decision.²

7. Respondent timely paid the assessed civil penalties on January 13, 2014.

8. On January 22, 2014, Staff timely filed exceptions to the Decision. Among Staff's arguments, it states that "[i]t was not Staff's intention that Respondent be given a further opportunity to pay the penalty and avoid imposition of a more serious sanction." Staff states that, although the proceeding focused on Respondent's failure to pay the penalties imposed in Decision Nos. R13-0030 and C13-0352, the past violations of Respondent demonstrate indifference to the authority of the Commission.

¹ Respondent was issued a \$1,100 civil penalty by Decision No. R13-0030 on January 8, 2013 in Proceeding 12G-987EC and a \$1,775 civil penalty by Decision No. C13-0352 on March 26, 2013 in the same proceeding.

² The total penalty assessed in these decisions was \$2,875.

Therefore, Staff requests that the Commission strike Ordering Paragraph No. 2 from the Decision and order that, notwithstanding the payment of outstanding penalties, the Commission revoke Respondent's authority pursuant to LL-01417.

9. On February 5, 2014, Respondent filed a response to Staff's exceptions. Respondent argues that Ordering Paragraph No. 2 is consistent with the law and is a reasonable exercise of the ALJ's authority and discretion, and based on the facts before her. It emphasizes that § 40-10.1-112(2), C.R.S., provides:

Upon proof of violation, the commission may issue [an] order to cease and desist or may suspend, revoke, alter, or amend any certificate or permit, assess civil penalties as provided in article 7 of this title, *or take any other action within the commission's authority.*³

10. Respondent further argues that Staff's arguments related to its past violations are improper as they were fully litigated in prior Commission proceedings and are beyond the scope of the ALJ's proceedings here.

11. We agree with Respondent that, consistent with § 40-10.1-112(2), C.R.S., inclusion of the relief permitted in Ordering Paragraph No. 2 was within the discretion of the ALJ and was not an abuse of that discretion in the current proceeding. Respondent timely paid the assessed civil penalties in accordance with and relying on the Decision as ordered; we shall not strike Ordering Paragraph No. 2 as requested by Staff. Staff's exceptions are denied.

³ Emphasis provided by Respondent.

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

1. Consistent with the discussion above, the exceptions to Recommended Decision No. R14-0001 filed by Staff of the Colorado Public Utilities Commission on January 22, 2014 are denied.

2. The 20-day time period provided by § 40-6-114(1), C.R.S., to file an application for rehearing, reargument, or reconsideration shall begin on the first day after the Commission mails orders this Decision.

3. This Decision is effective on its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
February 19, 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