

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 14C-0946TR

IN THE MATTER OF ALLEGED VIOLATIONS OF COLORADO REVISED STATUTES
AND COMMISSION RULES RELATING TO THE FILING OF ANNUAL REPORTS BY
MOTOR VEHICLE CARRIERS HOLDING A CERTIFICATE OF PUBLIC CONVENIENCE
AND NECESSITY OR A CONTRACT CARRIER PERMIT TO OPERATE IN THE STATE OF
COLORADO.

**FORMAL COMPLAINT
AND NOTICE OF HEARING**

Mailed Date: September 22, 2014
Adopted Date: September 10, 2014

I. BY THE COMMISSION

A. Statement and Findings

1. This matter comes before the Commission to determine whether to initiate a formal complaint proceeding regarding each regulated intrastate carrier who has failed to file with the Commission, an annual report for the calendar year ending December 31, 2013, in accordance with Rule 6212 of the Commission's Rules Regulating Transportation by Motor Vehicle, 4 *Code of Colorado Regulations* (CCR) 723-6.

2. Rule 6212 of the Commission's Rules Regulating Transportation by Motor Vehicle, 4 CCR 723-6, mandates that each regulated intrastate carrier file with the Commission, an annual report on or before April 30 for the preceding calendar year. Rule 6212 states that the annual report shall be submitted on a form supplied by the Commission.

3. To inform and remind each regulated intrastate carrier of the requirement to file the annual report, a letter, under Director Doug Dean's signature, was mailed to each of these

carriers on February 7, 2014. This letter advised each carrier of the location on the Commission's website of the prescribed annual report form and provided instructions on completing and filing the annual report.

4. Accordingly, each common carrier authorized to provide passenger transportation under a Certificate of Public Convenience and Necessity and each contract carrier authorized to provide passenger transportation under a Permit within the State of Colorado was required to submit an annual report for the preceding year to the Commission before May 1, 2014. The carriers listed on Attachment A, as of the date of this Decision, have not submitted the required annual report to the Commission. On July 17, 2014, at the request of the Commission, Director Doug Dean sent a letter to each of the listed carriers. The letter informed the carriers that Commission Staff (Staff) was considering initiating a formal complaint proceeding against the carrier for failing to file a 2013 annual report and gave the carriers 20 days to comply with the reporting requirements.

5. Staff has reviewed its records and determined that as of September 10, 2014, a 2013 annual report has not been received from the carriers listed on Attachment A.

B. Discussion

6. Section 40-3-110, C.R.S., provides in relevant part, that:

Every public utility shall furnish to the commission at such time and in such form as the commission may require a report in which the utility shall specifically answer all questions propounded by the commission upon or concerning which the commission may desire information.

7. Rule 6212(a) of the Commission's Rules Regulating Transportation by Motor Vehicle, 4 CCR 723-6, provides in relevant part, that:

Each regulated intrastate carrier shall file with the Commission an annual report on a Commission-prescribed form on or before April 30 of each year.

The regulated intrastate carrier shall complete all sections of the annual report applicable to said regulated intrastate carrier for the 12-month period ending on December 31 of the previous calendar year.

8. The Commission finds that each of the entities listed on Attachment A may have failed to comply with the annual reporting requirements enumerated above. Accordingly, sufficient cause exists to hold a hearing to determine the facts of the matter, to hear material arguments, to receive evidence and testimony, and to determine what order or requirement, if any, shall be imposed by the Commission.

9. If the Commission determines that it is appropriate to do so, the Commission may issue a decision including but not limited to: (a) assessment of a civil penalty of up to \$550.00 pursuant to Rule 6216(b) of the Rules Regulating Transportation by Motor Vehicle, 4 CCR 723-6; and/or, (b) revocation of the regulated intrastate carrier's authority(ies) for the violation of, or failure to comply with, any order, rule, or regulation of the Commission pursuant to Rule 6008(c) of the Rules Regulating Transportation by Motor Vehicle, 4 CCR 723-6.

II. ORDER

A. The Commission Orders That:

1. Consistent with the above discussion, each regulated intrastate carrier listed on Attachment A shall appear before the Commission to address why the Commission should not take action and enter a Decision including, but not limited to, an order assessing a civil penalty of up to \$550.00 pursuant to 4 *Code of Colorado Regulations* (CCR) 723-6-6213(b); and/or, an order revoking the carrier's authority(ies) pursuant to 4 CCR 723-6-6008.

2. Proceeding No. 14C-0946TR is set for hearing before an Administrative Law Judge as follows:

DATE: October 20, 2014

TIME: 10:00 a.m.

PLACE: Colorado Public Utilities Commission
1560 Broadway, Suite 250
Denver, Colorado.

3. If the 2013 annual report is received in the form required by the Commission prior to the hearing date, the Commission may dismiss that carrier from the proceeding.

4. The Staff of the Public Utilities Commission shall file, at least 30 days before hearing: (1) two copies of a list containing the name, address, and title of each of its witnesses; and (2) two copies of each of the exhibits which it plans to present at the hearing. Copies of the witness list and exhibits shall be served upon all parties to the proceeding.

5. All entities listed on Attachment A shall satisfy this Complaint or file its answer within 20 days of service of this Decision. These entities shall file, at least 20 days before hearing: (1) two copies of a list containing the name, address, and title of each of its witnesses; and, (2) two copies of each of the exhibits, which it plans to present at the hearing. Copies of the witness list and exhibits shall be served upon all parties to the proceeding.

6. No witness shall be permitted to testify nor shall any document be received in evidence, except in rebuttal, unless filed and served as provided in this Decision.

7. If Staff of the Public Utilities Commission or any entity named in Attachment A fails to meet the above requirements, the Commission may dismiss the proceeding or any defense, upon motion filed by any other party, unless good cause for non-filing is shown.

No motion for continuance shall be granted if filed within 20 days before the first day of the hearing, except for good cause shown.

8. No exception to the procedure in the Decision shall be made except upon timely motion showing good cause.

9. This Decision is effective on its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
September 10, 2014.**

(S E A L)



ATTEST: A TRUE COPY

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

Doug Dean,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

JOSHUA B. EPEL

PAMELA J. PATTON

GLENN A. VAAD

Commissioners