

Decision No. R14-0193

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 14G-0031CP

COLORADO PUBLIC UTILITIES COMMISSION,

COMPLAINANT,

V.

COLORADO TOUR LINE, L.L.C., DOING BUSINESS AS
GRAY LINE OF DENVER,

RESPONDENT.

**RECOMMENDED DECISION OF
ADMINISTRATIVE LAW JUDGE
MANA L. JENNINGS-FADER
FINDING RESPONDENT LIABLE, NOTING
PAYMENT IN FULL, VACATING DECISION
NO. R14-0189-I, VACATING STAFF FILING
REQUIREMENT, AND CLOSING PROCEEDING**

Mailed Date: February 20, 2014

I. STATEMENT

1. On January 3, 2014, the Commission served Civil Penalty Assessment Notice or Notice of Complaint No. 108367(the CPAN) on Colorado Tour Line, L.L.C., doing business as Gray Line of Denver (CTL or Respondent). The CPAN commenced this Proceeding.

2. The CPAN stated that, if it chose to do so, Respondent could pay one-half of the maximum assessment stated in the CPAN within ten days from the date of service. If made, the payment would constitute Respondent's admission of liability and would resolve this matter. Respondent elected not to make the payment. As a consequence, the CPAN was deemed to be contested.

3. On January 24, 2014, counsel for Trial Staff of the Commission (Staff) entered his appearance in this Proceeding.

4. Staff and Respondent, collectively, are the Parties.

5. On January 29, 2014, by Minute Order, the Commission referred this Proceeding to an Administrative Law Judge (ALJ).

6. On January 31, 2014, by Decision No. R14-0121-I, the ALJ required Staff and CTL each to make a filing in this Proceeding. By this Decision, the ALJ will vacate Staff's February 21, 2014 filing requirement.

7. On February 19, 2014, by Decision No. R14-0189-I, the ALJ required Respondent to obtain legal counsel in this Proceeding. By this Decision, the ALJ will vacate Decision No. R14-0189-I.

8. In accordance with § 40-6-109, C.R.S., the ALJ now transmits to the Commission the record in this Proceeding along with a written recommended decision.

II. FINDINGS, DISCUSSION, AND CONCLUSION

9. Respondent is a Colorado limited liability company. Respondent holds Commission-issued Authority No. 55716 and provides transportation service pursuant to that authority.

10. By certified mail, return receipt requested, the Commission served the CPAN on Respondent. Respondent does not dispute service.

11. Respondent does not challenge the Commission's jurisdiction.

12. The record establishes, and the ALJ finds, that the Commission has subject matter jurisdiction over this case and personal jurisdiction over Respondent.

13. The CPAN contains one count. That count alleges that, on December 9, 2013, Respondent violated 49 *Code of Federal Regulations* (CFR) § 391.41(a)(1)(i), as made applicable in Colorado by Rule 4 *Code of Colorado Regulations* (CCR) 723-6-6102(a)(I).¹ As stated in the CPAN, the maximum civil penalty for the alleged violation is \$ 250; the maximum surcharge mandated by § 24-34-108, C.R.S., is \$ 25; and the maximum assessment is \$ 275.

14. On February 13, 2014, Respondent paid the full amount stated in the CPAN. By making this payment, Respondent acknowledged -- and on this basis, the ALJ finds -- that on December 9, 2013, Respondent violated 49 CFR § 391.41(a)(1)(i), as made applicable in Colorado by Rule 4 CCR 723-6-6102(a)(I).

15. In addition, when it made the payment in full, Respondent implicitly agreed to having the ALJ assess the maximum civil penalty amount of \$ 250. Based on Respondent's agreement, the ALJ finds that it is reasonable to assess the maximum civil penalty in this matter.

16. As Respondent has paid the maximum assessment in full, there is nothing further to be decided in this Proceeding. The ALJ will close this Proceeding.

17. Pursuant to § 40-6-109(2), C.R.S., the Administrative Law Judge recommends that the Commission enter the following Order.

III. ORDER

A. The Commission Orders That:

1. Consistent with the discussion above, Colorado Tour Line, L.L.C., doing business as Gray Line of Denver, is assessed \$ 275, which includes a civil penalty of \$ 250 and, as required by § 24-34-108, C.R.S., a surcharge of \$ 25.

¹ This Rule is found in the Rules Regulating Transportation by Motor Vehicle, Part 6 of 4 *Code of Colorado Regulations* 723.

2. Colorado Tour Line, L.L.C., doing business as Gray Line of Denver, has paid in full the amount assessed in Ordering Paragraph No. 1.

3. The February 21, 2014 filing requirement stated in Decision No. R14-0121-I is vacated.

4. Decision No. R14-0189-I is vacated.

5. Proceeding No. 14G-0031CP is closed.

6. This Recommended Decision shall be effective on the day it becomes the Decision of the Commission, if that is the case, and is entered as of the date above.

7. As provided by § 40-6-109, C.R.S., copies of this Recommended Decision shall be served upon the parties, who may file exceptions to it.

a) If no exceptions are filed within 20 days after service or within any extended period of time authorized, or unless the decision is stayed by the Commission upon its own motion, the recommended decision shall become the decision of the Commission and subject to the provisions of § 40-6-114, C.R.S.

b) If a party seeks to amend, modify, annul, or reverse basic findings of fact in its exceptions, that party must request and pay for a transcript to be filed, or the parties may stipulate to portions of the transcript according to the procedure stated in § 40-6-113, C.R.S. If no transcript or stipulation is filed, the Commission is bound by the facts set out by the administrative law judge and the parties cannot challenge these facts. This will limit what the Commission can review if exceptions are filed.

8. If exceptions to this Decision are filed, they shall not exceed 30 pages in length, unless the Commission for good cause shown permits this limit to be exceeded.

(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

MANA L. JENNINGS-FADER

Administrative Law Judge