

Decision No. R14-0242

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 14G-0108CP

COLORADO PUBLIC UTILITIES COMMISSION,

COMPLAINANT,

V.

UNION TAXI COOPERATIVE,

RESPONDENT.

**RECOMMENDED DECISION OF
ADMINISTRATIVE LAW JUDGE
G. HARRIS ADAMS
ACCEPTING SETTLEMENT AND
ASSESSING AND PARTIALLY
SUSPENDING CIVIL PENALTY**

Mailed Date: March 5, 2014

I. STATEMENT, FINDINGS, AND CONCLUSIONS

1. This is a civil penalty assessment proceeding brought by the Staff of the Colorado Public Utilities Commission (Staff) against the Respondent, Union Taxi Cooperative (Union Taxi).

2. On January 31, 2014, Staff issued Civil Penalty Assessment Notice (CPAN) No. 108663 to Union Taxi seeking civil penalties of \$671,000 (or \$335,000.00 if paid within ten days). The CPAN cited Union Taxi for 27 violations of 4 *Code of Colorado Regulations* (CCR) 723-6-6103(d)(II)(A) of the Commission's Rules Regulating Transportation by Motor Vehicle; 63 violations of 4 CCR 723-6-6103(d)(II)(D); and 154 violations of 49 *Code of Federal Regulations* § 390.35.

3. Staff and Union Taxi are the only parties to this proceeding.

4. The Commission referred this matter to an administrative law judge for resolution during its weekly meeting held February 26, 2014.

5. On February 12, 2014, the Joint Motion to Approve Stipulation and Settlement Agreement was filed by Staff and Union Taxi along with the Stipulation and Settlement Agreement (Stipulation, a copy of which is attached to this Decision as Appendix A) as a complete and final resolution of all issues in this proceeding. The agreement was reached in the spirit of compromise and in consideration of the hazards of litigation. Approval of the settlement reached will minimize expenses of litigation and promote administrative efficiency.

6. In accordance with § 40-6-109, C.R.S., the Administrative Law Judge now transmits to the Commission the record and exhibits in this proceeding along with a written recommended decision.

7. Approval of the settlement will not have a precedential affect upon 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).

8. Union Taxi admits liability for all counts of the CPAN. The parties request assessment of reduced civil penalty in the amount of \$270,000. Such amount would be payable in three monthly installments of \$90,000 each. The first payment would be due within 20 days of a final Commission decision accepting the Stipulation. As more specifically set forth in the Stipulation, the provisions address failure to make timely monthly payments.

9. Union Taxi acknowledges wrongdoing and admits the maximum level of culpability for all violations in the CPAN. Union Taxi cooperated with Staff in resolving the matter, mitigating litigation costs. Respondent has stated its intent to conduct any

necessary changes and/or upgrades to its current software system to ensure that accurate time keeping records are maintained. Respondent will perform periodic detailed audits of its driver files to ensure that drivers are maintaining true and accurate records of service hours. The parties agree that a civil penalty of \$270,000.00 is sufficient to motivate Union Taxi to comply with the Public Utilities Law and the Commission's rules in the future.

10. To be acceptable, the Stipulation must be clear, understandable, and administratively enforceable. The Stipulation meets those requirements.

11. The joint motion being submitted by all parties to the proceeding, it is appropriate that response time be waived.

12. The parties' agreement demonstrates sufficient support to demonstrate that the Stipulation should be accepted.

II. ORDER

A. The Commission Orders That:

1. Response time to the Joint Motion to Approve Stipulation and Settlement Agreement filed February 12, 2014, is waived and the request is granted.

2. The Stipulation and Settlement Agreement (Stipulation) filed February 12, 2014, a copy of which is attached hereto as Appendix A, is approved.

3. To the extent not inconsistent with this Decision, the Stipulation is incorporated by reference and made an order of the Commission as if fully set forth herein. All parties shall comply with all terms of the Stipulation, except as modified or superseded by the remainder of this Decision.

4. Union Taxi Cooperative (Union Taxi) is assessed a penalty of \$671,000 for 27 violations of 4 *Code of Colorado Regulations* (CCR) 723-6-6103(d)(II)(A); 63 violations of 4 CCR 723-6-6103(d)(II)(D); and 154 violations of 49 *Code of Federal Regulations* § 390.35. However, \$401,000 of the civil penalty assessed is suspended on the condition that: (1) payment in the amount of \$90,000 is received by the Commission within 20 days after the Commission's approval of the Stipulation becomes final plus an additional \$90,000.00 every 30 days thereafter until a total of \$270,000 has been paid (*i.e.*, a total of three payments with the second installment due no later than 30 days after the first installment payment (50 days after the Commission's final order), and the third installment shall be due no later than 30 days after the second installment payment (80 days after the Commission's final order)). Upon satisfaction of the conditional suspension, such amount shall be permanently suspended.

5. If Union Taxi violates any part of the condition for the suspension of a portion of the civil penalty, the suspension shall immediately expire and any remaining balance of the total assessed penalty shall be due and payable to the Commission within ten days thereof.

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.

c) 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

Doug Dean,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

G. HARRIS ADAMS

Administrative Law Judge