

Decision No. R14-0419-I

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 14F-0313EC

DURANGO TAXI LLC,

COMPLAINANT,

V.

ANIMAS TRANSPORTATION,

RESPONDENT.

**INTERIM DECISION OF
ADMINISTRATIVE LAW JUDGE
MELODY MIRBABA
VACATING HEARING AND REQUIRING
RESPONDENT TO ANSWER OR
SATISFY THE COMPLAINT WITHIN 20 DAYS**

Mailed Date: April 23, 2014

I. STATEMENT, FINDINGS, AND CONCLUSIONS

1. Only those portions of the procedural history necessary to understand this Decision are included.

2. On April 7, 2014, Durango Taxi LLC (Complainant), filed a formal Complaint (Complaint) with the Commission against Animas Transportation (Animas or Respondent).

3. On April 10, 2014, Commission Director Doug Dean issued an Order to Answer or Satisfy (Order to Answer). At the same time, a Notice of Hearing was issued, scheduling the hearing on the Complaint for May 12, 2014 at 9:00 a.m. The certificate of service in the Commission's e-filing system does not show that the Order to Answer, the Notice of Hearing, or that the Complaint and attachments were served on Respondent.

4. During its weekly meeting held April 16, 2014, the Commission referred this matter to an Administrative Law Judge (ALJ) for disposition.

5. The ALJ has identified several issues requiring immediate attention.

6. First, because the record does not show that Respondent has been served with the Complaint, all attachments, the Order to Answer and the Notice of Hearing, they will be served on Respondent by United States mail with this Decision. The Order to Answer and the Notice of Hearing are attached to this Decision as Appendix A. Respondent should be aware that the Order to Answer and the Notice of Hearing are being provided to Respondent to ensure there are no *ex parte* communications; however, this Decision makes the Order to Answer and the Notice of Hearing obsolete, as explained below.

7. The Complaint and all attachments to the Complaint are attached to this Decision as Appendix B.¹

8. This Decision shall amount to a new order requiring Respondent to answer or satisfy the Complaint. This Decision shall reset the timeframe for the Respondent to answer or satisfy the Complaint; the deadlines set by the original Order to Answer are vacated by this Decision. Respondent will have 20 days to answer or satisfy the Complaint from the date this Decision and the Complaint (attached as Appendix B), is served on Respondent. The service date is based upon the mail date as set forth on page 1 above.

9. Given that Respondent has not been served with the Complaint, and will have 20 days to answer it, the May 12, 2014 hearing date is premature. Moreover, Complainant specifically identified May 12, 2014 as a date for which it is unavailable for a hearing. *See*

¹ The last page of Appendix B is a copy of a letter the Commission sent to the Complainant acknowledging receipt of the Complaint. It is not a part of the Complaint and the Respondent need not answer the letter.

Complaint. The ALJ will vacate that hearing date. A new hearing date will be scheduled, if appropriate, after the expiration of the new answer deadline.

10. The ALJ also notes that in addition to naming Animas as a Respondent, the Complaint also identifies Ms. Sandra Nadoly and Mr. Don Tunick as Respondents in this proceeding. Since the Complainant e-filed the Complaint with the Commission, it was Complainant's responsibility to enter accurate information in the e-filings system identifying all parties to this proceeding.

11. Under Rule 1211(c) of the Commission's Rules of Practice and Procedure, 4 *Code of Colorado Regulations* 723-1, when there is a conflict between information input into the e-filing system and the information contained in the documents submitted through the e-filing process, the information input into the e-filing process shall prevail. In other words, the information Complainant input regarding who is the respondent in this proceeding shall prevail over the information contained in the Complaint. As a result, unless Complainant makes a filing requesting other relief, Animas shall remain the sole Respondent in this proceeding.

II. ORDER

A. It Is Ordered That:

1. The deadline in the April 10, 2014 Order to Answer or Satisfy is vacated (attached as Appendix A).
2. The May 12, 2014 9:00 a.m. hearing scheduled by the Notice of Hearing found in Appendix A is vacated. A new hearing will be rescheduled in a subsequent Decision.
3. This Decision amounts to a new Order to Answer oSatisfy.

4. Animas Transportation is notified that a formal Complaint has been filed against you in the above entitled and captioned case. The Complaint and all attachments thereto are provided as Appendix B to this Decision.

5. Animas Transportation is ordered to satisfy the matters in the Complaint or to answer the Complaint in writing within 20 days from service upon you of this Decision and copy of the attached Complaint.

6. If the Complaint is satisfied and adequate evidence of satisfaction is presented to the Commission, the Complaint shall be dismissed. If the Complaint is not satisfied, or if adequate evidence of its satisfaction is not presented to the Commission, or if no answer is filed within the time required, **the allegations of the Complaint may be deemed admitted, and the Commission may grant so much of the relief sought in the Complaint as is within its power and jurisdiction or may set the Complaint for hearing.**

7. This Decision is effective immediately.

(S E A L)



ATTEST: A TRUE COPY

Doug Dean,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

MELODY MIRBABA

Administrative Law Judge