

Decision No. R14-1389-I

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 14F-0806CP

COLORADO JITNEY, LLC,

COMPLAINANT,

V.

CITY AND COUNTY OF DENVER AND
EVERGREEN TRAILS, INC., DOING BUSINESS AS HORIZON COACH LINES,

RESPONDENTS.

**INTERIM DECISION OF
ADMINISTRATIVE LAW JUDGE
MANA L. JENNINGS-FADER
GRANTING MOTION TO AMEND COMPLAINT,
PERMITTING COMPLAINANT TO FILE AMENDED
COMPLAINT, AND GRANTING *NUNC PRO TUNC*
MOTION TO ENLARGE TIME WITHIN WHICH
TO FILE RESPONSE TO MOTIONS TO DISMISS**

Mailed Date: November 19, 2014

I. STATEMENT

1. On July 25, 2014, Colorado Jitney, LLC (Jitney or Complainant), filed a Formal Complaint against The City and County of Denver (Denver) and Evergreen Trails, Inc., doing business as Horizon Coach Lines (Horizon). That filing commenced this Proceeding.

2. On August 6, 2014, by Minute Order, the Commission referred this matter to an Administrative Law Judge (ALJ).

3. On August 18, 2014, Denver filed its Answer to the Complaint. This case is at issue as to Denver.

4. On August 19, 2014, Horizon filed its Answer to the Complaint. This case is at issue as to Horizon.

5. Denver and Horizon, collectively, are the Respondents. Complainant and Respondents, collectively, are the Parties. Each party is represented by legal counsel.

6. The procedural history of this Proceeding is set out in previously-issued Interim Decisions and is repeated here as necessary to put this Interim Decision in context.

A. Motion to Amend Complaint.

7. On September 10, 2014, by Decision No. R14-1104-I, the ALJ, *inter alia*: (a) established the procedural schedule in this Proceeding; and (b) scheduled the evidentiary hearing in this Proceeding. On October 2, 2014, by Decision No. R14-1213-I, the ALJ modified the procedural schedule as follows: not later than October 14, 2014, Complainant shall file a motion to amend the Complaint.

8. On October 14, 2014, Jitney filed a Motion to Amend Complaint (Motion to Amend). The Amended Complaint accompanied that filing.

9. On October 17, 2014, Horizon filed its Answer to the Amended Complaint.

10. On October 28, 2014, Denver filed a motion to dismiss the Amended Complaint. This filing tolls the time within which Denver must file an answer to the Amended Complaint.

11. The time for responding to the Motion to Amend has expired, no response to the motion was filed, and the motion is unopposed. In addition, pursuant to Rule 4 *Code of*

Colorado Regulations (CCR) 723-1-1400(d)¹ and considering the Denver and Horizon filings, each of which addresses the Amended Complaint, the Motion to Amend is confessed.

12. Rule 4 CCR 723-1-1309(a) requires Complainant to obtain Commission approval in order to amend the Complaint. The Motion to Amend states good cause, is unopposed, and is confessed. No party will be prejudiced if the Motion to Amend is granted. The ALJ will grant the Motion to Amend and will permit Complainant to file the Amended Complaint.

B. Motion to Extend Response Deadline.

13. On October 28, 2014, Denver filed a Motion to Dismiss which addresses the Amended Complaint.

14. On November 4, 2014, Horizon filed a Motion to Dismiss which addresses both the Complaint and the Amended Complaint.

15. On November 12, 2014, Complainant filed a Motion to Consolidate and Extend Response Deadline (Motion to Extend Response Deadline). In that filing, Complainant requests an enlargement of time within which to file its response to the Denver Motion to Dismiss; asks that the response date be the same for both motions to dismiss (*i.e.*, the response to both motions would be due on November 18, 2014); and represents that its motion is unopposed.

16. The Motion to Extend Response Deadline states good cause. As the motion is unopposed, no party will be prejudiced if the motion is granted. The ALJ will grant *nunc pro tunc* the Motion to Extend Response Deadline and will order Complainant to file, not later than **November 18, 2014** its response to the two pending motions to dismiss.²

¹ This Rule is found in the Rules of Practice and Procedure, Part 1 of 4 *Code of Colorado Regulations* 723.

² On November 12, 2014, by electronic mail addressed to all counsel, the ALJ granted the Motion to Extend Response Deadline. This Interim Decision memorializes that ruling.

17. On November 18, 2014, Complainant filed its Response in Opposition to Motions to Dismiss.

II. ORDER

A. It Is Ordered That:

1. The Motion to Amend Complaint, which motion was filed on October 14, 2014, is granted.

2. Colorado Jitney, LLC, may file the Amended Complaint submitted on October 14, 2014.

3. The Motion to Consolidate and Extend Response Deadline, which motion was filed on November 12, 2014, is granted *nunc pro tunc*.

4. Not later than November 18, 2014, Colorado Jitney, LLC, shall file its response to the Motion to Dismiss filed on October 28, 2014 and to the Motion to Dismiss filed on November 4, 2014.

5. The Parties are held to advisements contained in the Interim Decisions issued in this Proceeding.

6. This Interim Decision is effective immediately.

(S E A L)



THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

MANA L. JENNINGS-FADER

Administrative Law Judge

ATTEST: A TRUE COPY

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

Doug Dean,
Director