

Decision No. R04-0473-I

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 04G-149CP

PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO,

COMPLAINANT,

V.

SAN MIGUEL MOUNTAIN VENTURES, LLC, D/B/A TELLURIDE EXPRESS,

RESPONDENT.

**INTERIM ORDER OF
ADMINISTRATIVE LAW JUDGE
DALE E. ISLEY
DENYING MOTION FOR CONTINUANCE**

Mailed Date: May 7, 2004

I. STATEMENT

1. The captioned proceeding was initiated on March 23, 2004, when the Staff of the Colorado Public Utilities Commission (Staff) issued Civil Penalty Assessment Notice (CPAN) No. 28452 to the Respondent, San Miguel Mountain Ventures, LLC, doing business as Telluride Express (Telluride Express).

2. On or about April 1, 2004, Telluride Express acknowledged liability for 30 of the violations set forth in CPAN No. 28452 (nos. 1 through 5 and 19 through 43) and paid the applicable fine (\$3,000.00) for such violations. It is contesting the remaining 13 violations (nos. 6 through 18) and has requested a hearing in connection with the same.

3. On April 13, 2004, the Commission issued an Order Setting Hearing and Notice of Hearing (Hearing Notice) setting a hearing in this matter for June 10, 2004, in Montrose, Colorado.

4. By correspondence dated April 23, 2004 and received by the Commission on April 26, 2004, Telluride Express requests that the June 10, 2004, hearing date be vacated and that the matter be rescheduled for hearing in either Telluride or Montrose, Colorado, sometime after June 28, 2004 (with the exception of June 30, 2004). As grounds for this request, Telluride Express states that all its witnesses cannot be present at a hearing held on June 10, 2004 (or, presumably, for the three weeks thereafter).

5. On May 4, 2004, Staff filed a response in opposition to Telluride Express' continuance request. Staff indicates that prior to setting the hearing in this matter it communicated with Telluride Express concerning an acceptable hearing date and location and that an agreement was reached to schedule the hearing in Montrose on June 10, 2004. Commission personnel then made the contacts necessary to reserve a hearing room in Montrose on that date. In addition, the Commission Safety and Enforcement official who issued CPAN No. 28542, Paul Hoffman, rearranged his auditing schedule in order to accommodate this date and location.¹ In addition, Staff questions whether Telluride Express' defense of the recordkeeping violations contained in CPAN No. 28542 will require multiple witnesses. If multiple witnesses are required, Staff suggests that their testimony be presented via telephone or

¹ Mr. Hoffman is stationed in Pueblo, Colorado. He has apparently scheduled audits of various transportation providers located in the Montrose area around June 10, 2004 in order to maximize limited travel resources.

some other means. Staff indicates that it cannot be available for a rescheduled hearing until after July 7, 2004.

6. Telluride Express does not specifically state why its witnesses will be unavailable on June 10, 2004 or for the three-week period following that date. Presumably, it indicated that such witnesses were available on June 10, 2004 when it discussed the hearing setting with Staff prior to the issuance of the Hearing Notice. Neither has it indicated why these witnesses could not effectively testify via telephone.² In any event, considerable effort has been expended in setting the current hearing date. Rescheduling the matter to a later date would be inefficient and wasteful of Commission resources and would not further the Commission's policy of promptly resolving matters of this type. In addition to requiring an additional trip to Montrose by Mr. Hoffman, the undersigned administrative law judge (ALJ) and one of the Commission's court reporters would also be inconvenienced by such a rescheduling.³ In this regard, it is observed that matters of this type are typically scheduled for hearing at the Commission's offices in Denver, Colorado. Therefore, holding the hearing in Montrose constitutes an accommodation to Telluride Express that may not otherwise be available to it.

7. For all the foregoing reasons, the request of Telluride Express to continue the hearing in this matter is denied.

² If Telluride Express wishes to submit testimony in this matter via telephone it must provide notice of that intention to Staff and the ALJ at least ten days prior to the hearing of this matter. That notice must provide the name of the witness, copies of all documents to be used by the witness in connection with his/her testimony, and a telephone number where the witness can be reached.

³ Docket No. 04A-154CP has also been assigned to the ALJ. The hearing in that matter is currently scheduled for June 8 and 9, 2004, in Glenwood Springs, Colorado. By holding the hearing in this matter on June 10, 2004 the ALJ and court reporter can travel directly from Glenwood Springs to Montrose rather than making a return trip to Denver for a later trip to Montrose.

II. ORDER

A. It Is Ordered That:

1. The request of San Miguel Mountain Ventures, LLC, doing business as Telluride Express, to continue the June 10, 2004, hearing of this matter is denied.
2. This Order shall be effective immediately.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Administrative Law Judge