

Decision No. R04-0901-I

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 04G-302EC

PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO,

COMPLAINANT,

V.

BUS SERVICE, INC. (THE),

RESPONDENT.

**INTERIM ORDER OF
ADMINISTRATIVE LAW JUDGE
DALE E. ISLEY
GRANTING MOTION FOR
CONTINUANCE AND
RE-SCHEDULING HEARING**

Mailed Date: August 4, 2004

I. STATEMENT

1. The captioned proceeding was initiated on or about June 1, 2004, when the Staff of the Colorado Public Utilities Commission (Staff) issued Civil Penalty Assessment Notice (CPAN) No. 28624 to the Respondent, Bus Service, Inc. (The) (Bus Service).

2. Bus Service has acknowledged liability for a portion of CPAN No. 28624 and has paid the corresponding civil penalty assessment. It has, however, contested liability for the remaining violations contained in CPAN No. 28624 and has requested a hearing in connection with those violations.

3. This matter is currently set for hearing on August 16, 2004. *See*, Decision No. R04-0686-I.

4. On July 30, 2004, Assistant Attorney General John J. Roberts entered his appearance as counsel for Staff. On that same date, Staff submitted an Unopposed Motion to Continue Hearing and for Waiver of Response Time (Motion). The Motion seeks to continue the hearing to sometime after September 30, 2004. In support thereof, Staff indicates that both its counsel and its primary witness are unavailable on the currently scheduled hearing date. The Motion indicates that Staff's counsel discussed the need to continue the hearing with Ms. Braddock, a Bus Service representative, and that she had no objection to Staff's request.

5. On August 2, 2004, Bus Service submitted a Response in opposition to the Motion. It disputes Staff's contention that it agreed to the requested continuance. The Response indicates that Mr. Ronald Braddock is a necessary witness in this matter and that he postponed previously scheduled back surgery until late-August so that he would be available to participate at the August 16, 2004, hearing. Bus Service states that it wishes to resolve this matter as soon as possible so that its liability for and the amount of any additional penalty assessment can be factored into its business plan. In addition, Bus Service has hired additional help for August 16, 2004 in order to accommodate Mr. and Ms. Braddock's appearance at the hearing. For these reasons, it requests that the hearing proceed on August 16, 2004.

6. On August 3, 2004, the undersigned administrative law judge (ALJ) initiated informal discussions with the parties' representatives, Ms. Braddock and Mr. Roberts, in an attempt to resolve the Motion. Attempts to reach an agreement to reschedule the hearing to sometime prior to Mr. Braddock's late-August surgery or to sometime after September 30, 2004 were unsuccessful.

7. The ALJ wishes to ensure that both Staff and Bus Service have a full opportunity to participate at the hearing. Although the ALJ understands Bus Service's desire to have a speedy resolution of this matter, that desire is outweighed by the fact that both Staff's counsel and its primary witness are unavailable on the currently scheduled hearing date. On the other hand, Bus Service will be available for hearing sometime after Mr. Braddock recuperates from his upcoming back surgeries.¹ Staff is agreeable to a rather lengthy postponement of the hearing in order to accommodate Mr. Braddock's medical situation.

8. In light of the foregoing, the Motion will be granted and the hearing will be rescheduled for November 16, 2004. It is believed that this three-month continuance will provide sufficient time for Mr. Braddock to recover from his upcoming surgeries so that he can participate fully at the hearing. If circumstances prove otherwise, Bus Service should so advise the ALJ through a written motion and he will consider a further postponement of the hearing.

II. ORDER

A. It Is Ordered That:

1. The hearing of this matter scheduled for August 16, 2004, is vacated.
2. This matter is re-scheduled for hearing as follows:

DATE: November 16, 2004

TIME: 9:00 a.m.

PLACE: Commission Hearing Room
1580 Logan Street, Office Level 2
Denver, Colorado
3. This Order shall be effective immediately.

¹ During the course of the August 3, 2004 discussion referred to above, Ms. Braddock indicated that Mr. Braddock may need a second round of back surgery at some undetermined time after the late-August surgery.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Administrative Law Judge

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