

Decision No. R04-0945

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 04G-320EC

COLORADO PUBLIC UTILITIES COMMISSION,

COMPLAINANT,

V.

BLACK DIAMOND LIMITED LLC,

RESPONDENT.

**RECOMMENDED DECISION OF
ADMINISTRATIVE LAW JUDGE
MANA L. JENNINGS-FADER
GRANTING UNOPPOSED MOTION,
DISMISSING CPAN, VACATING
HEARING, CLOSING DOCKET,
AND WAIVING RESPONSE TIME**

Mailed Date: August 11, 2004

I. STATEMENT, FINDINGS, AND CONCLUSION

1. On June 8, 2004, Staff of the Public Utilities Commission (Staff) issued Civil Penalty Assessment Notice (CPAN) No. 28635 to Black Diamond Limited LLC (Respondent). Staff charged Respondent with four violations of § 40-16-101(3)(a)(I), C.R.S., and Rule 4 *Code of Colorado Regulations* 723-33-6314 for having non-complying external markings on four of its luxury limousines.

2. By Order Setting Hearing and Notice of Hearing issued on July 13, 2004, the Commission set the hearing in this matter for August 30, 2004. By this Order the undersigned

Administrative Law Judge (ALJ) will grant the Staff's Unopposed Motion to Vacate Hearing and will vacate this hearing.

3. On August 10, 2004, Staff filed an Unopposed Motion to Dismiss Civil Penalty Assessment Notice 28635-CPAN, Vacate Hearing, and Close Docket (Motion). The ALJ finds and concludes that the Motion, which was filed by the party which commenced this proceeding, states good cause for dismissing the CPAN. In addition, Respondent does not oppose the Motion and, therefore, will not be prejudiced by granting the Motion. The Motion will be granted, the CPAN will be dismissed, and this docket will be closed.

4. The Motion is unopposed. In view of this fact, response time to the Motion will be waived.

5. In accordance with § 40-6-109, C.R.S., the ALJ recommends that the Commission enter the following order.

II. ORDER

A. The Commission Orders That:

1. The Unopposed Motion to Dismiss Civil Penalty Assessment Notice 28635-CPAN is granted.

2. Civil Penalty Assessment Notice No. 28635 is dismissed.

3. The Unopposed Motion to Vacate Hearing is granted.

4. The hearing scheduled in this matter for August 30, 2004, is vacated.

5. The Unopposed Motion to Close Docket No 04G-320EC is granted.

6. Docket No. 04G-320EC is closed.

7. Response time to the Unopposed Motion to Dismiss Civil Penalty Assessment Notice 28635-CPAN, Vacate Hearing, and Close Docket is waived.

8. 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.

9. 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.

10. 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.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Administrative Law Judge

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