

Decision No. R14-0023-I

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 13G-1234EC

COLORADO PUBLIC UTILITIES COMMISSION,

COMPLAINANT,

V.

KEVIN UPSHAW, DOING BUSINESS AS PARTY ON WHEELS,

RESPONDENT.

**INTERIM DECISION OF
ADMINISTRATIVE LAW JUDGE
ROBERT I. GARVEY
SCHEDULING HEARING AND
ESTABLISHING PROCEDURAL DEADLINES**

Mailed Date: January 8, 2014

I. STATEMENT

1. On November 19, 2013, Commission Staff filed a Civil Penalty Assessment Notice (CPAN) with the Commission against Kevin Upshaw, doing business as Party on Wheels (Respondent).

2. On December 11, 2013, the Commission referred the matter to an administrative law judge (ALJ) to decide the merits of the CPAN.

3. By this Decision a procedural schedule shall be set and an evidentiary hearing shall be scheduled.

4. The ALJ will order the parties to make disclosures of the witnesses and evidence they intend to present at the hearing in support of their position.

5. Witness lists shall include a description of the witnesses' anticipated testimony and the witnesses' last known address and telephone number.

6. If a party intends to introduce any documents in support of their case, they **must file and serve** an exhibit list which references that document and they must serve the exhibit on the other party. An exhibit is any document or other tangible item the party wishes the ALJ to consider in reaching a decision in this matter.

7. As referenced in this Decision, serving a party with any document (*e.g.*, witness and exhibit lists and exhibits) means that the party is required to give the document to the other party to the proceeding. Service may be accomplished by United States Mail, or through the Commission's E-filing system, if the party is registered with the E-filing system.

8. Except as stated below, all parties must demonstrate through a certificate of service that they have served the filed document on the other party. Documents served through the Commission's E-filing system do not require a certificate of service. A certificate of service is a statement indicating how and when a document was served on the other party (*e.g.*, the filing was served by placing the document in the United States mail, first class postage-prepaid to an identified address on an identified date).

9. All exhibits shall be identified by sequential numbers (*e.g.*, Exhibit 1, Exhibit 2, and Exhibit 3). The exhibits shall include the following information: exhibit number, proceeding number, name of the witness who will testify to the exhibit's foundation, and the date of the hearing. The parties may utilize the Commission's exhibit stamp prior to the start of the hearing to include this information on the exhibits; the parties are advised that they must have all their exhibits stamped prior to the time the hearing is scheduled to begin.

10. At the hearing, the parties shall bring an original and three copies of each exhibit they intend to introduce at the hearing. The filing of an exhibit with the Commission does not, by itself, admit an exhibit into the record of the proceeding.

11. If any exhibit is longer than two pages, the party offering the exhibit shall sequentially number each page of the exhibit.

12. **The parties are on notice** that no witness, other than the Respondent, shall be permitted to testify, except in rebuttal, unless that witness is identified on a list of witnesses filed and served as required herein. **The parties are on notice** that failure to provide a description of the witnesses' testimony may result in a decision prohibiting such witness from testifying.

13. **The parties are on notice** that no exhibit will be received in evidence, except in rebuttal, unless filed and served as required herein.

14. **All parties are advised** that this proceeding is governed by the Rules of Practice and Procedure found at 4 *Code of Colorado Regulations* 723-1, Part 1. The ALJ expects the parties to comply with the Rules of Practice and Procedure. The rules are available on the Commission's website (www.dora.colorado.gov/puc) and in hard copy from the Commission.

15. **Non-attorneys will be held to the same standards as attorneys.**

II. ORDER

A. It Is Ordered That:

1. A hearing on the merits of the Civil Penalty Assessment Notice in this matter will be held as follows:

DATE: March 18, 2014
TIME: 9:00 a.m.
PLACE: Commission Hearing Room
1560 Broadway, 2nd Floor
Denver, Colorado

2. At the above date, time, and place you will be given the opportunity to be heard if you so desire.

3. Commission Staff shall file and serve exhibit and witness lists and exhibits **on or before 5:00 p.m. on February 18, 2014.**

4. Kevin Upshaw doing business as Party on Wheels shall file and serve exhibit and witness lists and exhibits **on or before 5:00 p.m. on March 4, 2014.**

5. The parties shall comply with all mandates stated in this Decision.

6. This Decision is effective immediately.

(S E A L)



THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

ROBERT I. GARVEY

Administrative Law Judge

ATTEST: A TRUE COPY

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

Doug Dean,
Director