

Decision No. R23-0457-I

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 22A-0565CP

IN THE MATTER OF THE APPLICATION OF JASON STEINBERG DOING BUSINESS AS
STEAMBOAT TAXI FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY
TO OPERATE AS A COMMON CARRIER BY MOTOR VEHICLE FOR HIRE.

**INTERIM DECISION OF
ADMINISTRATIVE LAW JUDGE
CONOR F. FARLEY
SCHEDULING REMOTE PREHEARING CONFERENCE,
RESCHEDULING HEARING, AND ESTABLISHING
PROCEDURAL SCHEDULE**

Mailed Date: July 17, 2023

I. STATEMENT

A. Background

1. On December 21, 2022, Jason Steinberg, doing business as Steamboat Taxi (Steamboat Taxi) filed the application described in the caption above (Application). Steamboat Taxi seeks: “authority to operate as a common carrier by motor vehicle for hire for the transportation of passengers in call-and-demand taxi service between all points in Routt County, State of Colorado.”

2. On December 27, 2022, the Commission issued public notice of the authority sought by Steamboat Taxi in the Application as follows:

For authority to operate as a common carrier by motor vehicle for hire for the transportation of passengers in call-and-demand taxi service between all points in Routt County, State of Colorado.

3. On January 23, 2023, Alpine Taxi/Limo, Inc. d/b/a Alpine and/or Go Alpine (Go Alpine) filed a Notice of Intervention by Right, Alternative Motion to Intervene and Request for Hearing (Intervention). Go Alpine stated that it owns, and operates pursuant to, Certificate of Public Convenience and Authority (CPCN) No. 26246, a copy of which it attached to its Intervention.

4. On January 24, 2023, NDW Enterprises LLC, doing business as Ski Town Transportation (Ski Town) filed a Petition to Intervene (Petition). Ski Town states that it owns and operates pursuant to: (a) Luxury Limousine Permit No. LL-03502; and (b) temporary common carrier authority granted in Proceeding No. 22A-0131CP-TA that “has been extended indefinitely pending resolution of” Ski Town’s request in Proceeding No. 22A-0132CP to make the temporary authority permanent.¹

5. On February 1, 2023, the Commission deemed the Application complete and referred the proceeding to an Administrative Law Judge. The proceeding was subsequently assigned to the undersigned ALJ.

6. On March 23, 2023, the ALJ issued Decision No. R23-0197-I that ordered Ski Town to file and serve by March 31, 2023, a pleading addressing the basis for its request to intervene in this proceeding.

7. On March 31, 2023, Ski Town filed the pleading described in Decision No. R23-0197-I.

¹ Petition at 2.

8. On May 9, 2023, Decision No. R23-0302 issued in Proceeding No. 22A-0132CP that granted an application filed by Ski Town to operate the authority described therein in Routt County.

9. On May 16, 2023, Decision No. R23-0323-I issued that scheduled the hearing for June 22 and 23, 2023 in Steamboat Springs, established a prehearing procedural schedule for this proceeding, and scheduled a remote prehearing conference for June 13, 2023.

10. On May 25, 2023, Steamboat Taxi filed a Motion for Extension in which Steamboat Taxi requested that the hearing be continued to a later date in August.

11. On June 8, 2023, Ski Town filed a response to the Motion for Extension stating, among other things that Steamboat Taxi had committed to waiving the statutory deadline in one or more communications with Ski Town.

12. On June 13, 2023, the ALJ held the remote prehearing conference at which Steamboat Taxi confirmed its waiver of the statutory deadline to obtain a continuance of the hearing. The ALJ instructed the parties to confer about a date for the hearing and a procedural schedule. The ALJ further ordered that Steamboat Taxi file a Report of the results of the parties' conferral.

13. On June 20, 2023, Steamboat taxi filed the Report in which Steamboat Taxi stated:

All parties have agreed to moving the two-day hearing currently scheduled for June 22 and 23, 2023, to September 21 and 22, 2023. The hearing will take place in Steamboat Springs.

With regards to prehearing deadlines, counsel for Intervenors suggested that I file witness lists and exhibits five weeks before hearing (August 17) and Intervenors file the same three weeks before hearing (August 31). I would prefer that all parties be required to file witness and exhibit lists six

weeks before hearing (August 10), with all parties having the ability to file amended lists and exhibits three weeks before hearing (August 31). I have already filed a preliminary list, and all parties will have substantial time to prepare for hearing given the continuance. In the alternative, if the ALJ is inclined to order me to provide a witness lists and exhibits prior to Intervenor, I would request an opportunity to amend my witness list and exhibits after Intervenor provide theirs, to allow for discovery. In this alternative option, I would file a witness list and exhibits six weeks before hearing (August 10), Intervenor submit four weeks before hearing (August 24), and all parties may submit amended lists and exhibits two weeks before hearing (September 7).

B. Hearing

14. The hearing will be scheduled for **September 21 and 22, 2023** in Steamboat Springs.

C. Procedural Schedule

15. To facilitate the orderly and efficient litigation of this proceeding, the ALJ finds and concludes that a procedural schedule should be adopted, so that each party will have an opportunity prior to the hearing to review a summary of the anticipated testimony of each witness the other party intends to call at the hearing, and to review copies of the exhibits the other party will present at the hearing. Therefore, this Decision will order the parties to file, and to serve on each other, a list of witnesses, a summary of the testimony of each witness, and copies of the exhibits the filing party intends to present at the hearing.

16. On or before **August 10, 2023**, Steamboat Taxi will be ordered to file and serve on the Intervenor: (a) a list that identifies the witnesses Steamboat Taxi intends to call at the hearing, the last known address and telephone number of each witness, and a summary of the anticipated testimony of each witness; and (b) copies of the exhibits Steamboat Taxi will present at the hearing.

17. On or before **August 24, 2023**, Intervenor will each be ordered to file and serve on Steamboat Taxi: (a) a list that identifies the witnesses the filer intends to call at the hearing, the last known address and telephone number of each witness, and a summary of the anticipated testimony of each witness; and (b) copies of the exhibits the filer will present at the hearing.

18. The deadline to file and serve amended witness lists and/or amended/additional exhibits is **September 7, 2023**.

19. 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 or parties to the proceeding. Service must be accomplished pursuant to Rule 1205 of the Commission's Rules of Practice and Procedure.² The Commission's Rules (including Rule 1205) are available on the Commission's website and in hard copy from the Commission.

20. All parties must establish through a certificate of service that they have served a filed document on all other parties in the proceeding. 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).³

21. All exhibits shall be identified by sequential numbers (*e.g.*, Exhibit 1, Exhibit 2, and Exhibit 3). Each exhibit 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 shall work together to ensure that there are no overlaps in the numbering of the exhibits.

² 4 CCR 723-1.

³ See Rule 1205(e), 4 CCR 723-1.

22. The filing of an exhibit with the Commission does not, by itself, admit an exhibit into the evidentiary record of the hearing.

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

24. The parties are on notice that: (a) any witness may be prohibited from testifying, except in rebuttal, unless that witness is identified on the list of witnesses filed and served as required herein; (b) failure to provide an accurate description of the anticipated testimony of a witness may also result in an order prohibiting such witness from testifying; and (c) any exhibit may not be received in evidence, except in rebuttal, unless filed and served as required herein.

D. Remote Prehearing Conference

25. It is appropriate to hold a second remote prehearing conference in this proceeding. Accordingly, a remote prehearing conference shall be scheduled for **September 15, 2023 at 10:00 a.m.** The remote prehearing conference will be conducted over the Zoom videoconferencing platform. The ALJ or a member of Commission Staff will email the log-in information in advance of the hearing. Attachment A to this Decision provides the information addressing how to use the Zoom platform for remotely participating in the remote prehearing conference.

26. All parties must appear at the remote prehearing conference. Failure to attend or to participate in the remote prehearing conference is a waiver of any objection to the rulings made during the remote prehearing conference, and may lead to the dismissal of the Application or intervention of the non-attending Respondent.

E. Additional Advisements

27. The Parties are advised and are on notice that this proceeding is governed by the Rules of Practice and Procedure found at 4 CCR 723-1. The ALJ expects the Parties to be familiar with and to comply with these rules. The rules are available on the Commission's website (<https://puc.colorado.gov/pucrules>) and in hard copy from the Commission.

II. ORDER**A. It Is Ordered That:**

1. A remote prehearing conference in this proceeding is scheduled as follows:

DATE: September 15, 2023

TIME: 10:00 a.m.

WEBCAST: Hearing Room B

METHOD: Join by video conference using Zoom at the link to be provided in an email from the Administrative Law Judge⁴

2. Nobody should appear in-person for the remote prehearing conference.

3. The in-person hearing is vacated and rescheduled as follows:

DATE: September 21 and 22, 2023

TIME: 9:00 a.m. daily

LOCATION: Commissioners' Hearing Room
Routt County Historic Courthouse
522 Lincoln Avenue, 3rd Floor
Steamboat Springs, CO 80487

4. On or before **August 10, 2023**, Applicant shall file and serve on the Intervenor:

(a) a list that identifies the witnesses Applicant intends to call at the hearing, the last known

⁴ Additional information about the Zoom platform and how to use the platform are available at: <https://zoom.us/>. All are strongly encouraged to participate in a test meeting prior to the scheduled hearing. See <https://zoom.us/test>.

address and telephone number of each witness, and a summary of the anticipated testimony of each witness; and (b) copies of the exhibits Applicant will present at the hearing.

5. On or before **August 24, 2023**, Intervenor shall each file and serve on Applicant: (a) a list that identifies the witnesses the filer intends to call at the hearing, the last known address and telephone number of each witness, and a summary of the anticipated testimony of each witness; and (b) copies of the exhibits the filer will present at the hearing.

6. The deadline to file and serve amended witness lists and/or amended/additional exhibits is **September 7, 2023**.

7. This Decision is effective immediately.

(S E A L)



ATTEST: A TRUE COPY

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

CONOR F. FARLEY

Administrative Law Judge

Rebecca E. White,
Director