

Decision No. R23-0603-I

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 23A-0347CP-EXT

IN THE MATTER OF THE APPLICATION OF MEDRIDE, LLC FOR AUTHORITY TO
EXTEND OPERATIONS UNDER CERTIFICATE OF PUBLIC CONVENIENCE AND
NECESSITY NO. 55980.

**INTERIM DECISION OF
ADMINISTRATIVE LAW JUDGE
ALENKA HAN
REQUIRING FILINGS, ADDRESSING LEGAL
REPRESENTATION, AND SCHEDULING REMOTE
PREHEARING CONFERENCE**

Mailed Date: September 15, 2023

I. STATEMENT AND PROCEDURAL HISTORY

A. Summary

1. This Decision schedules a remote prehearing conference for Tuesday, September 26, 2023, at 10:30 a.m. to move this matter forward.

B. Procedural History

2. On June 29, 2023, MedRide, LLC (MedRide or Applicant) initiated this matter by filing an Application for Permanent Authority to Extend Operations Under Certificate of Public Convenience and Necessity No. 55980, granted by Decision No. C22-0555, issued December 19, 2022, in Proceeding No. 22A-0318CP. MedRide seeks to expand its business by providing its ambulatory and wheelchair passengers door-to-door transportation services currently offered in Mesa County throughout the State of Colorado.

3. MedRide's Extension Application was signed and submitted by its Vice President of Business Development, Tyler Borzileri. However, Mr. Borzileri declared that he did not wish to represent MedRide's interests in this Proceeding. Instead, the Application indicated that MedRide will be represented in this Proceeding by Lenora Plimpton of Fortis Law Partners.

4. On July 10, 2023, the Public Utilities Commission (the Commission) provided public notice under § 40-6-108(2), C.R.S., of the Application. As noticed, the Application seeks:

an order of the Commission authorizing the extension of Certificate of Public Convenience and Necessity (CPCN) No. 55980. The proposed extension of operations under CPCN No. 55980 is as follows:

Transportation of passengers, in call-and-demand shuttle service between all points in Mesa County, and between said points, on the one hand, and all points in the State of Colorado, on the other hand.¹

5. On July 19, 2023, Tazco, Inc., doing business as Sunshine Taxi (Sunshine Taxi or Intervenor), filed its Notice of Intervention by Right, Alternative Motion for Intervention, Entry of Appearance and Request for Hearing. Its Intervention was submitted through its counsel, Mark Valentine of Keyes & Fox, LLP.

6. Sunshine Taxi's Letter of Authority, CPCN No. 19429, which it provided with its Intervention, authorizes Sunshine Taxi to offer the following services:

- I. Transportation of passengers, in taxi service, between all points in the County of Mesa, State of Colorado, and between these points, on the one hand, and all points in the State of Colorado, on the other hand.
- II. Transportation of passengers, in charter and call-and-demand limousine service, between all points in the County of Mesa, State of Colorado, and between these points, on the one hand, and all points in the State of Colorado, on the other hand.

¹ Notice of Application and Petitions Filed, p. 2, filed July 10, 2023.

- III. Transportation of passengers, in sightseeing service, between points in the Counties of Mesa and Delta, State of Colorado.

RESTRICTIONS: This Certificate is restricted as follows:

- A. Item (I) is restricted against the pickup of passengers within a ten-mile radius of the downtown post office in Telluride, Colorado;
- B. Item (II) is restricted against providing service to or from points in the County of Routt, State of Colorado;
- C. Item (II) is restricted against providing service from points within a five-mile radius of the intersection of U.S. Highway 160 and 550 in Durango, Colorado;
- D. Item (II) is restricted against providing service from points in the Counties of Gunnison, Eagle, Denver, San Juan, or Archuleta, State of Colorado;
- E. Item (II) is restricted against providing service from points within a 25-mile radius of the downtown post office in Telluride, Colorado; and
- F. Items (I) and (II) are restricted against the maintenance of an office within a 25-mile radius of the downtown post office in Telluride, Colorado.

7. On August 16, 2023, the Commission deemed the Application complete and referred the matter to an Administrative Law Judge (ALJ) by minute entry for disposition.

II. RELEVANT LAW

8. Two classes of parties may intervene in proceedings such as this: parties with a legally protected right that may be impacted by the proceeding (intervention of right), and parties with pecuniary or tangible interests that may be substantially impacted by the proceeding (permissive intervention).² To intervene of right, a carrier's intervention must: state the basis for the claimed legally protected right that may be impacted by the proceeding; include a copy of the

² 4 CCR 723-1401(b) and (c); See § 40-6-109(a), C.R.S.; and *RAM Broad. of Colo. Inc., v. Pub. Utils. Comm'n*, 702 P.2d 746, 749 (Colo. 1985).

carrier's authority; show that the carrier's authority is in good standing; identify the specific parts of the authority that are in conflict with the application; and explain the consequences to the carrier and the public interest if the application is granted.³ A carrier's letter of authority provides the basis for the legally protected right which an intervenor claims may be impacted by the proceeding. Thus, it is important to determine whether the intervenor's letter of authority shows that it has the right to operate in a manner that may be impacted by an application's requested authority.

III. DISCUSSION, FINDINGS, AND CONCLUSIONS

A. Sunshine Taxi's Intervention

9. Sunshine Taxi has provided documentation showing that it holds a certificate to provide taxi services, charter and call-and-demand transportation services, and sightseeing services in Mesa and Delta Counties. With several restrictions, Sunshine Taxi provides its services between Mesa and Delta Counties on the one hand, and all points within the State of Colorado on the other hand. MedRide is seeking to provide call-and-demand shuttle service for ambulatory and wheelchair passengers between Mesa County on the one hand, "and all points in the State of Colorado" on the other hand. The service area within which MedRide proposes to operate thus directly overlaps with the area in which Sunshine Taxi currently provides service. Sunshine Taxi therefore asserted that granting MedRide an extension of its certificate would negatively impact the former's business and would not be in the public interest.

10. Sunshine Taxi has thus demonstrated that it may intervene as of right in this Proceeding. Its Intervention as of right is acknowledged.

³Rule 1401(b) and (f)(I), 4 CCR 723-1.

B. Remote Prehearing Conference.

11. To move this matter forward, and in anticipation of a hearing on the Application, the ALJ is scheduling a fully remote prehearing conference per Rule 1409(a), 4 CCR 723-1.

12. Participants will appear at the prehearing conference from remote locations by video conference and may not appear in person for the prehearing conference. The remote prehearing conference will be held using the web-hosted service, Zoom. Attachment A hereto includes important technical information and requirements to facilitate holding the prehearing conference remotely. All those participating in the hearing must carefully review and follow all requirements in this Decision and Attachment A.

13. To minimize the potential that the video-conference hearing may be disrupted by non-participants, the link and meeting ID or access code to attend the hearing will be provided to the participants by email before the hearing, and the participants will be prohibited from distributing that information to anyone not participating in the hearing.⁴

14. At the prehearing conference, an evidentiary hearing will be scheduled, and related procedural deadlines will be established. The ALJ anticipates that a fully remote evidentiary hearing will be held in via Zoom. Alternatively, the parties may choose to hold a hearing fully in person at the Commission's offices in Denver, Colorado, or at another location agreed to by the parties and approved by the ALJ, or a hybrid hearing which accommodates both in person and remote participation in the evidentiary hearing. Given that a Commission final decision must be

⁴ Participants will receive an email with the information to join the hearing at the email addresses on file with the Commission for this proceeding. The ALJ anticipates that the hearing will be webcast, consistent with Commission practice; this means that those wishing to observe the hearing may do so without the need to join the hearing as a participant.

issued by April 22, 2024, the ALJ anticipates that an evidentiary hearing in this matter should best be held by the end of December 2023. The participants should keep this in mind when preparing for the prehearing conference. Other issues relevant to this proceeding may be raised or addressed at the prehearing conference, including whether the parties have met the requirements of this Decision and relevant Commission rules.

15. *All parties are on notice* that failure to appear at the prehearing conference may result in decisions adverse to their interests, including granting the complete relief opposing parties seek, dismissing interventions, and dismissing or granting the Application. The ALJ will deem any party's failure to appear at the prehearing conference to be a waiver of that party's objection to the rulings made during the prehearing conference.

IV. **ORDER**

A. **It Is Ordered That:**

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

DATE: Tuesday, September 26, 2023

TIME: 10:30 a.m.

PLACE: Join by video conference using Zoom

2. Participants in the hearing may not distribute the hearing link, access, or ID code to anyone not participating in the hearing. Participants may not appear in person at the Commission for the above-scheduled hearing. Instead, they must participate in the hearing from remote locations, consistent with the requirements of this Decision.

3. All participants must comply with the requirements in Attachment A to this Decision, which is incorporated into this Decision.

4. This Decision is effective immediately.

(S E A L)



ATTEST: A TRUE COPY

A handwritten signature in cursive script that reads "Rebecca E. White".

Rebecca E. White,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

ALENKA HAN

Administrative Law Judge