

Decision No. R23-0671-I

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 22A-0335CP

IN THE MATTER OF THE APPLICATION OF TIPSY VELO LLC, DOING BUSINESS AS TIPSY VOYAGE, 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
AVIV SEGEV
VACATING HEARING, RESCHEDULING REMOTE
HEARING, AND PROVIDING INSTRUCTIONS
CONCERNING EXHIBITS AND PARTICIPATING IN
REMOTE EVIDENTIARY HEARING**

Mailed Date: October 5, 2023

STATEMENT

A. Procedural Background

1. On July 21, 2022, Topsy Velo, LLC, d/b/a Topsy Voyage (Applicant or Topsy Voyage) filed with the Commission its Permanent Authority Application (Application), through which Applicant seeks a Certificate of Public Convenience and Necessity (CPCN) to operate as a common carrier by motor vehicle for hire. This filing commenced Proceeding No. 22A-0335CP.

2. On July 25, 2022, the Commission issued a Notice of Applications and Petitions Filed (Notice). The Notice gave notice of the Application, set procedural deadlines, and established a 30-day intervention period.

3. On August 22, 2022, Absolute Prestige Limousine II LLC (Intervenor or Absolute Prestige) timely noticed its intervention of right by filing its Entry of Appearance, Intervention,

Letter of Authority, and Legal Representation for Absolute Prestige Limousine II, LLC (Intervention).

4. On June 12, 2023, Applicant's Amended Final Witness and Exhibits (Applicant's Witness and Exhibit List) was filed by Topsy Voyage.

5. On August 31, 2022, the Commission, via minute entry, deemed the Application complete and referred Proceeding No. 22A-0335CP to an Administrative Law Judge (ALJ) for disposition.

6. By Decision No. R23-0528-I, filed August 8, 2023, the ALJ, among other things, established procedures and scheduled a hearing in this matter for October 5, 2023.

7. On September 21, 2023, Intervenor Absolute Prestige Limousine II, LLC's Witness & Exhibit List for Evidentiary Hearing (Intervenor's Witness and Exhibit List) was filed by Absolute Prestige.

8. On September 21, 2023, Intervenor Absolute Prestige Limousine II, LLC's Motion to Dismiss (Intervenor's Motion to Dismiss) as filed by Absolute Prestige.

9. On September 25, 2023, Applicant's Motion to Strike the Motion to Dismiss and the Intervention of Absolute Prestige Limousine II, LLC and for other Relief including the Vacating of Hearing on October 5, 2023 (Applicant's Motion to Strike and Dismiss) was filed by Topsy Voyage.

10. On October 4, 2023, Applicant's Unopposed Motion to Vacate and Reschedule Hearing and to Waive Response Time (Motion to Vacate) was filed by Topsy Voyage. In the Motion to Vacate, Applicant requests to reschedule the evidentiary hearing in this Proceeding for November 28 or November 29, 2023.

a. Motion to Vacate

11. Because the Motion to Vacate is unopposed, response time to the Motion will be waived, as ordered below.

12. The Motion to Vacate states good cause for the requested relief. Therefore, the evidentiary hearing scheduled for October 5, 2023 will be vacated, as ordered below.

b. Procedural Schedule, Remote Evidentiary Hearing, Unified Numbering System for Hearing Exhibits, and Hearing Exhibits

13. Given the vacating of the evidentiary hearing ordered below and the administrative burdens associated with rescheduling the hearing in Grand Junction, CO, a fully-remote evidentiary hearing will be held in this Proceeding. This Decision and Attachments A and B to this Decision provide critical information and instructions to facilitate holding the remote hearing, which all parties must follow.

14. To minimize the potential that the remote hearing may be disrupted by non-participants, the link, meeting ID code, and passcode 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.

15. Attachment A to this Decision provides the information addressing how to use the Zoom platform for remotely participating in the hearing. Attachment B outlines procedures and requirements for marking and formatting exhibits to facilitate the efficient and smooth electronic evidence presentations at the hybrid hearing. It is extremely important that the parties carefully review and follow all requirements in this Decision and Attachments A and B.

16. The parties shall use the unified numbering system for hearing exhibits, as assigned in Decision No. R23-0326-I.

17. Given the rescheduling of the evidentiary hearing ordered below, the parties will each be afforded the opportunity to file a final witness and exhibit list, as ordered below. Should either party not file a final witness and exhibit list by the deadline ordered below, the non-filing party will be held to its most recently-filed witness and exhibit list in this Proceeding.

c. Pending Motions

18. Intervenor's Motion to Dismiss and Applicant's Motion to Strike and Dismiss will be addressed by (a) separate interim decision(s).

d. Additional Procedural Notice

19. The parties are on notice that the ALJ will retain the discretion to change the method by which the hearing will be conducted.

20. Additional procedural requirements may be addressed in future Interim Decisions.

ORDER

A. It Is Ordered That:

1. Response time to Applicant's Unopposed Motion to Vacate and Reschedule Hearing and to Waive Response Time (Motion to Vacate), filed October 4, 2023 by Topsy Velo, LLC, d/b/a Topsy Voyage (Applicant), is waived.

2. Consistent with the discussion above, the Motion to Vacate is granted.

3. The evidentiary hearing scheduled for October 5, 2023, at 9:00 a.m. is vacated and fully remote evidentiary hearing is rescheduled as follows:

DATE: November 28, 2023

TIME: 9:00 a.m.

PLACE: Join by video conference using Zoom at the link to be provided in an email from the Administrative Law Judge¹

4. Applicant may file and serve its final witness and exhibit list no later than October 16, 2023.

5. Absolute Prestige Limousine II LLC may file and serve its final witness and exhibit list no later than October 23, 2023.

6. The parties shall be held to, and shall comply with, the requirements in this Decision. In addition to other requirements of the Commission's Rules of Practice and Procedure, 4 Code of Colorado Regulations 723-1 (*e.g.*, Rule 1202 regarding pre-filed testimony and Rule 1405 regarding discovery procedures), all pre-filed hearing exhibits shall be marked for identification and filed in accordance with this Decision, including Attachment B hereto.

¹ 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>.

7. This Decision shall be effective immediately.

(S E A L)



THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

AVIV SEGEV

Administrative Law Judge

ATTEST: A TRUE COPY

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

Rebecca E. White,
Director