

Decision No. R24-0063-I

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 23A-0499CP

IN THE MATTER OF THE APPLICATION OF HER RIDE LLC 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
GRANTING, IN PART, MOTION FOR EXTENSION OF
TIME TO FILE WITNESS AND EXHIBIT LIST,
RESCHEDULING HEARING, AND DENYING REQUESTS
TO STRIKE LATE FILINGS AND VACATE HEARING**

Mailed Date: January 26, 2024

I. STATEMENT

1. On October 6, 2023, Her Ride LLC (Applicant or Her Ride) filed its Application for New Permanent Authority to Operate as a Common Carrier of Passengers by Motor Vehicle for Hire (Application)¹.

2. On October 16, 2023, the Commission gave notice of the application (Notice).

3. On November 8, 2023, Pikes Peak Cab LLC, doing business as Pikes Peak Transport (Pikes Peak), timely intervened of right.

4. During the Commission's Weekly Meeting held November 22, 2023, the Commission deemed the Application complete and referred the proceeding to an Administrative Law Judge (ALJ) for resolution by minute entry.

¹ The Application was amended on October 9, 2023, and shall hereinafter be referred to as "Application."

5. By Decision No. R23-0814-I, issued December 7, 2023, the undersigned ALJ established procedures and scheduled a hearing. Per Decision No. R23-0814-I (as modified by the Errata to Decision No. R23-0814-I, issued on January 8, 2024) the deadline for Her Ride's submission of its witness and exhibit list was December 28, 2023, the deadline for Pike's Peak's submission of its witness and exhibit list was January 18, 2024, and the hearing was scheduled for February 8, 2024.

6. On December 27 and 28, 2023, Applicant filed its exhibits and a witness list.

7. On January 8, 2024, Pikes Peak filed a document² (Motion for Extension of Time) in which it seeks a 45-day extension to the of filing deadline of Pikes Peak's exhibits and witness list.

8. On January 19, 2024, Intervenor filed its exhibits. Intervenor did not file a witness list.

9. On January 24, 2024, Applicant filed a document³ (Motion to Dismiss) in which it seeks to strike Pikes Peak's late filings of its exhibits and vacate the hearing scheduled February 8, 2024 due to Pikes Peak's untimely submission of its exhibits.

A. Motion for Extension of Time and Hearing

10. In the Motion for Extension of Time, Intervenor states that the due to the lack of staffing during the holiday season, "information [Pikes Peak was] trying to gather was not obtained."⁴ Intervenor further states that given that it is now "tax season," Pikes Peak is working with its accountant to provide the accountant with appropriate documentation.⁵ Lastly, Pikes

² The document did not conform to the requirements set forth in Rule 1202 of the Rules of Practice and Procedure, 4 *Code of Colorado Regulations* (CCR) 723-1 and did not otherwise contain a discernable title.

³ This document, too, did not conform to the requirements set forth in Rule 1202 of the Rules of Practice and Procedure, 4 CCR 723-1 and did not otherwise contain a discernable title.

⁴ Motion for Extension of Time at 1.

⁵ *Id.*

Peak is arguing that an extension of time is merited because Applicant filed an extensive witness list and a considerable number of exhibits, which Pikes Peak needs “to navigate and respond to.”⁶

11. Response time to the Motion for Extension of Time has passed, and no response to the same has been filed. As such, pursuant to Rule 1308(f) of the Rules of Practice and Procedure, 4 CCR 723-1, the allegations made in the Motion for Extension of Time may be deemed admitted.

12. The ALJ finds and concludes that Intervenor stated good cause for extending the deadline for the submission of its exhibits and witness list. However, a 45-day extension is not merited under the circumstances. Therefore, Intervenor’s extension request will be granted, in part, as ordered below.

13. Given the partial granting of the Motion for Extension of Time, the ALJ finds and concludes that it is appropriate to also allow Applicant additional time to amend and/or supplement its exhibits and/or witness list. Therefore, Applicant will be afforded additional time to amend and/or supplement its exhibits and witness list, as ordered below.

14. Given the partial granting of the Motion for Extension of Time and the extension afforded to Applicant to amend and/or supplement its exhibits and witness list, as the same are ordered below, the ALJ finds and concludes that it is appropriate to vacate and reschedule the evidentiary hearing in this Proceeding, as ordered below.

15. The undersigned ALJ is reminding the parties that Decision No. R23-0814-I (modified by the Errata to Decision No. R23-0814-I that was issued on January 8, 2024, and Attachments A and B to Decision No. R23-0814-I) provide important information and instructions to facilitate holding the remote hearing, which all parties must follow.

⁶ *Id.*

B. Motion to Dismiss

16. Because no harm will come to Intervenor as a result of the denial of the relief sought by Applicant in the Motion to Dismiss, as ordered below, response time to the Motion to Dismiss will be waived *sua sponte*, as ordered below.

17. In the Motion to Dismiss, Applicant states that Intervenor submitted its exhibits after the deadline set forth by Decision No. R23-0814-I, and requests to strike “any documentation submitted [by Pikes Peak] after deadline set by the Public Utilities [sic] Commission,” and “dismiss hearing scheduled February 8, 2024 because of Pikes Peak’s untimely submission of documents.”⁷

18. The ALJ finds and concludes that the Applicant’s requested remedy is improper under the circumstances. The ALJ further notes that Pikes Peak filed its extension request prior to the late filing of its exhibits, and no timely response to the same has been filed by Applicant. Based on the forgoing, the Motion to Dismiss will be denied, as ordered below.

⁷ Motion to Dismiss at 1.

II. ORDER

A. It Is Ordered That:

1. The filing⁸ made by Pikes Peak Cab LLC, doing business as Pikes Peak Transport (Intervenor) on January 8, 2023 is granted, in part, consistent with the discussion above.

2. The evidentiary hearing scheduled for February 8, 2024 is vacated and rescheduled as follows:

DATE: February 27, 2024

TIME: 9:00 a.m.

PLACE: In-person: Commission Hearing Room, 1560 Broadway, Suite 250, Denver, Colorado 80202

By videoconference, using the Zoom web conferencing platform at a link to be provided by participants via email.⁹

3. No later than February 7, 2024, Her Ride LLC (Applicant) shall file (or supplement) and serve: (a) a list that identifies the witnesses Applicant intends to call at the hearing, including a summary of the anticipated testimony of each witness; and (b) copies of the exhibits Applicant will present at the hearing.

4. No later than February 20, 2024, Intervenor, shall file (or supplement) and serve: (a) a list that identifies the witnesses Pikes Peak intends to call at the hearing, including a summary of the anticipated testimony of each witness; and (b) copies of the exhibits Pikes Peak will present at the hearing.

⁸ See Supra, Footnote 2.

⁹ Additional information about the Zoom platform and how to use the platform are available at: <https://zoom.us/>. All participants are strongly encouraged to participate in a test meeting prior to the scheduled hearing. See <https://zoom.us/test>.

5. Response time to the filing made by Applicant on January 24, 2024¹⁰ (Motion to Dismiss Intervention) is dismissed *sua sponte*, consistent with the discussion above.
6. Any requests for relief made in the Motion to Dismiss Intervention, filed by Applicant on January 24, 2024, are denied, consistent with the discussion above.
7. This Decision shall be effective immediately.

(S E A L)



ATTEST: A TRUE COPY

Rebecca E. White,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

AVIV SEGEV

Administrative Law Judge

¹⁰ See *supra*, Footnote 3.