

Decision No. R24-0078-I

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 23A-0514CP-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
SETTING EVIDENTIARY HEARING AND
ESTABLISHING PROCEDURAL SCHEDULE**

Mailed Date: February 7, 2024

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I. STATEMENT AND PROCEDURAL HISTORY**A. Summary**

1. This Decision schedules a fully-remote evidentiary hearing in this Proceeding for Thursday, April 25, 2024, commencing at 9:00 a.m., and establishes a procedural schedule to govern this Proceeding.

B. Procedural History

2. On October 19, 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 (CPCN) No. 55980 (Extension Application), granted by Decision No. C22-0555, issued September 20, 2022, in Proceeding No. 22A-0318CP. MedRide seeks to expand its business by providing call-and-demand shuttle service from the Denver metro area (from the Counties of Adams, Arapahoe, Park, Boulder, Broomfield, Denver, Douglas, Jefferson, Larimer, and Weld) to points throughout the State of Colorado.¹

3. MedRide was issued its Letter of Authority to operate out of El Paso County by Decision No. C22-0555, issued September 20, 2022, in Proceeding No. 22A-0318CP.²

4. By Decision No. C23-0458, issued July 17, 2023, in Proceeding No. 23A-0239CP-EXT, MedRide's authority was extended to include service originating in Pueblo County.

¹Application for Permanent Authority to Extend Operations under CPCN No. 55980, filed Oct. 19, 2023.

²See Proceeding No. 23A-0347CP-EXZT, filed June 29, 2023.

5. MedRide currently holds CPCN No. 55980, under which Letter of Authority it is authorized to provide the following services:

- (I) Transportation of passengers, in call-and-demand shuttle service between all points in El Paso County, and between said points, on the one hand, and all points in the State of Colorado, on the other hand.
- (II) Transportation of passengers, in call-and-demand shuttle service between all points in Pueblo County, and between said points, on the one hand, and all points in the State of Colorado, on the other hand.

6. Concurrently pending before the Commission is MedRide's Extension Application seeking to expand its services into Mesa County, in Proceeding No. 23A-0347CP-EXT.

7. On October 23, 2023, the Public Utilities Commission (the Commission) provided public notice under § 40-6-108(2), C.R.S., of this Extension Application. As noticed, the Extension 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 the Counties of Adams, Arapahoe, Boulder, Broomfield, Denver, Douglas, Jefferson, Larimer, Park, and Weld, and between said points, on the one hand, and all points in the State of Colorado, on the other hand.³

8. On October 30, 2023, Mountain Star Transportation LLC, doing business as Explorer Tours (Explorer Tours), filed its Petition for Intervention and Entry of Appearance.

9. Subsequently, on November 22, 2023, several entities filed a joint Notice of Intervention by Right, Alternative Motion for Intervention, Entry of Appearance, and Request for Hearing. The entities jointly seeking to intervene are: Alpine Taxi/Limo, Inc.; AEX, Inc.; San Miguel Mountain Ventures (SMMV), LLC; Estes Park Charters, Corp.; and Home James Transportation Services, Ltd. (collectively referred to as the Alpine Intervenors).

³Notice of Application and Petitions Filed, p. 2, filed July 10, 2023.

10. On November 29, 2023, the Commission deemed the Application complete and referred the matter to an Administrative Law Judge (ALJ) by minute entry for disposition. The Proceeding was subsequently assigned to the undersigned ALJ.

11. By Decision No. R24-0032-I, issued January 16, 2024, the undersigned ALJ evaluated the intervenors' respective interventions, determined that each had an Intervention as of Right in this Proceeding, and acknowledged all of the Interventions. The parties to this Proceeding therefore are MedRide, Explorer Tours, Alpine Taxi, AEX, SMMV, Estes Park Charters, and Home James Transportation.

12. Decision No. R24-0032-I also granted Explorer Tours' request to be represented in this Proceeding by its owner, Roman Lysenko.

13. Finally, Decision No. R24-0032-I scheduled a prehearing conference for Tuesday, January 30, 2024, to discuss the scheduling of an evidentiary hearing and establish a procedural schedule to govern this Proceeding.

14. On January 30, 2024, at the appointed time, the ALJ held the fully remote prehearing conference as scheduled.

- Henry Baskerville of Fortis Law Partners appeared on behalf of MedRide;
- Mr. Lysenko appeared on behalf of Explorer Tours; and
- Andy Ball of Keyes & Fox appeared on behalf of the Alpine Intervenors.

II. SCHEDULING OF EVIDENTIARY HEARING

15. During the prehearing conference, the parties agreed to schedule an evidentiary hearing for **Thursday, April 25, 2024, commencing at 9:00 a.m.** via Zoom. The parties did not specify their preferred format for the evidentiary hearing. However, given the parties' somewhat disparate locations, the ALJ will schedule a fully remote evidentiary hearing. If the parties

determine that another format will better meet their needs, they may move to change the hearing format.

16. The ALJ notes that the Commission can conduct in-person, remote, or hybrid hearings. A remote hearing is one in which all of the participants appear and participate from remote locations over the Zoom web conferencing platform. A hybrid hearing involves the ALJ and at least one party and/or witness participating from one of the Commission's hearing rooms in Denver, and the remaining party(ies) and witness(es) participating from one or more remote locations using the Zoom web conferencing platform. An in-person hearing is one in which the ALJ and all parties and witnesses participate in the hearing at the same location.

17. With the parties' input, the ALJ will also establish procedural deadlines as detailed in the ordering paragraphs below.

18. **Instructions for Participating in, and Observing, the Remote Hearing:** Attachment A to this Decision provides the information addressing how to use the Zoom platform for participating in the remote hearing.

A. Informal Video-Conference Practice Session

19. The ALJ will hold an informal practice videoconference session if requested by either party to give the parties an additional opportunity to practice using Zoom and box.com before the hearing.

20. The parties may contact a Commission Legal Assistant by email at casey.federico@state.co.us or stepanie.kunkel@state.co.us, to schedule an informal practice video-conference session.

21. The parties will receive information and a link to participate in the informal practice session by email.

B. Advisements

22. All parties are on notice that failure to appear at the evidentiary hearing 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 hearing to be a waiver of that party's objection to the rulings made during the prehearing conference.

23. MedRide bears the burden of proof by a preponderance of the evidence that it should be granted the requested authority. The preponderance standard requires that the evidence of the existence of a contested fact outweighs the evidence to the contrary. That is, the fact-finder must determine whether the existence of a contested fact is more probable than its non-existence. A party meets this burden of proof when the evidence, on the whole, slightly tips in favor of that party.

24. The parties are on notice that filing an exhibit with the Commission does not, by itself, admit an exhibit into the record of the proceeding. An exhibit is any document or other tangible item the party wishes the ALJ to consider in reaching a decision in this matter.

25. The parties are also on notice that if circumstances change before the hearing date, the ALJ may modify this hearing to be held in-person or hybrid (in person with the option for witnesses, parties, and/or representatives to appear virtually), or may enter such other orders as appropriate in the circumstances.

26. All parties must be familiar with and follow the Commission's Rules of Practice and Procedure, 4 CCR 723-1, and the Commission's Rules Regulating Transportation by Motor Vehicle, 4 CCR 723-6. The parties may obtain a copy of these rules from the Commission in hard copy or on the Commission's website at:

27. <https://www.colorado.gov/pacific/dora/pucrules>.

28. The parties are reminded that no witness will be permitted to testify, except in rebuttal, unless that witness has been identified on a list of witnesses filed in accordance with the procedural schedule set forth below. Likewise, no exhibit will be received in evidence, except in rebuttal, unless filed in accordance with the procedural schedule as ordered below.

29. The ALJ is entering additional orders necessary to ensure the evidentiary hearing moves forward efficiently.

III. ORDER

A. It is Ordered That:

1. A fully-remote evidentiary hearing on the merits of the Application for Permanent Authority to Extend Operations Under Certificate of Public Convenience and Necessity (CPCN) No. 55980 (Extension Application), granted by Decision No. C22-0555 in this proceeding is scheduled as follows:

DATE: April 25, 2024

TIME: 9:00 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. **Instructions for Remote Hearings Via Zoom:** Detailed instructions governing participation in and procedures for remote hearings conducted via Zoom are set out in **Attachment A** to this order, which is incorporated into and made part of this order.

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

5. **Deadlines for Witness Lists, Exhibit Lists, and Exhibits:**

- a. Applicant MedRide, LLC, (MedRide), must file with the Commission and serve on all parties, its pre-marked exhibits, witness lists, and exhibit lists **by the close of business on February 22, 2024.**
- b. Intervenors must file with the Commission and serve on all parties, their pre-marked exhibits, witness lists, and exhibit lists **by the close of business on March 14, 2024.**
- c. MedRide may supplement its witness and exhibit lists in response to Intervenor's witness and exhibit list but must do so by filing and serving amended witness and exhibit lists, and any additional exhibits not already filed **by the close of business on April 4, 2024.** Any amended witness and exhibit lists filed by MedRide on or before April 4, 2024, should list all the witnesses and exhibits that MedRide intends to present at the hearing, including those listed in its previous witness and exhibit lists, and will supersede its prior witness and exhibit lists.⁴

6. As noted, the parties must mark their exhibits for identification *before* filing and serving them; additional information on marking exhibits for identification is set forth below. 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

⁴ This is intended to avoid MedRide filing supplemental witness and exhibit lists, which would require the ALJ and the parties to review the original and the supplemented lists in order to determine the full lists.

above-scheduled hearing. Instead, they must participate in the hearing from remote locations, consistent with the requirements of this Decision.

7. **Requirements for Witness Lists.** Witness lists must include a brief description of the witnesses' anticipated testimony and the witnesses' contact information.

8. **Requirements for Exhibit Lists.** Exhibit lists must include the hearing exhibit number assigned to each exhibit and a brief description of the exhibit. Any party may offer any exhibit sponsored by another party and is not required to include such an exhibit on their own exhibit list.

9. **Requirements for Exhibits.**

a. **Assigned Hearing Exhibit Numbers & Pre-Marking Exhibits.** The parties must mark hearing exhibits for identification using a number within their assigned hearing exhibit number block, as set forth below, and this proceeding number (23A-0514CP-EXT).

- **MedRide** is assigned hearing exhibit numbers 1 through 99;
- **Explorer Tours** is assigned hearing exhibit numbers 100 through 199;
and,
- **The Alpine Intervenors** are collectively assigned hearing exhibit numbers 200 through 299.

c. By way of example, MedRide should pre-mark its first exhibit as "Hearing Exhibit 1, Proceeding No. 23A-0514CP-EXT" and file and serve the pre-marked exhibit consistent with the above deadlines. Detailed instructions governing the preparation and presentation of exhibits at the remote hearing

are set out in **Attachment B** to this order, which is incorporated into and made part of this order.

10. Any settlement agreement, stipulation, or related documents memorializing any agreement reached by the parties should be filed with the Commission **no later than April 11, 2024.**

11. **Deadline to File Statements of Position:** After the evidentiary hearing, the parties may file their respective Statements of Position, in lieu of verbal closing arguments; any party wishing to do so must file with the Commission and serve on the opposing party their statement of position **by the close of business on May 9, 2024.**

12. This Decision is effective immediately.

(S E A L)



ATTEST: A TRUE COPY

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

ALENKA HAN

Administrative Law Judge

Rebecca E. White,
Director