

Decision No. R24-0128

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 23A-0621CP-EXT

IN THE MATTER OF THE APPLICATION OF MOUNTAIN STAR TRANSPORTATION LLC
DOING BUSINESS AS EXPLORER TOURS AND/OR RED ROCKS SHUTTLE FOR
AUTHORITY TO EXTEND OPERATIONS UNDER CERTIFICATE OF PUBLIC
CONVENIENCE AND NECESSITY NO. 55952.

**RECOMMENDED DECISION OF
ADMINISTRATIVE LAW JUDGE
MELODY MIRBABA
GRANTING MOTION TO STRIKE AND
PERMANENT AUTHORITY SUBJECT TO CONDITIONS**

Mailed Date: February 29, 2024

I. STATEMENT, SUMMARY AND PROCEDURAL HISTORY

A. Statement and Summary

1. This Decision grants the Motion to Strike Intervention as of Right or Response to Motion to Permissively Intervene (Motion to Strike or Motion) that Mountain Star Transportation LLC, doing business as Explorer Tours and/or Red Rocks Shuttle (Mountain Star or Applicant) filed on February 5, 2024; rejects or denies the Out-of-Time Notice of Intervention as of Right, or in the Alternative, Motion to Intervene of Denvers Airport Transportation, LLC and Entry of Appearance (Intervention) that Denvers Airport Transportation, LLC (Denvers Airport Transportation) filed on February 2, 2024 and grants the permanent authority sought by the uncontested Application filed on December 26, 2023 (Application), subject to conditions.

B. Procedural History

2. On December 26, 2023, Mountain Star initiated this matter by filing the Application. The Application seeks to extend operations under Mountain Star's Certificate of Public Convenience and Necessity (CPCN) No. 55952 to allow it to provide call-and-demand shuttle service between all points in Denver County and Origin Hotel Red Rocks at 18485 West Colfax Avenue in Golden, Colorado 80401, on the one hand, and Red Rocks Park and Amphitheatre (Red Rocks), State of Colorado, on the other hand.¹

3. On January 2, 2024, the Public Utilities Commission (the Commission) provided public notice of the Application, per § 40-6-108(2), C.R.S., establishing a 30-day intervention period.² The intervention period expired on February 1, 2024.³

4. On February 2, 2024, Denver's Airport Transportation filed its Intervention.

5. On February 5, 2024, Mountain Star filed its Motion to Strike.

6. On February 7, 2024, the Commission deemed the Application complete and referred the matter to an Administrative Law Judge (ALJ) for disposition by minute entry.

7. To date, Denver's Airport Transportation has not filed a response to the Motion to Strike and has made no filings since submitting its Intervention on February 2, 2024.

II. FINDINGS, ANALYSIS AND CONCLUSIONS**A. Applicant's Legal Representation**

8. As an initial matter, the ALJ finds it is necessary and appropriate to first address Mountain Star's legal representation. Generally, parties appearing before the Commission must be

¹ Application at 3.

² See Notice of Applications and Petitions filed December 26, 2023 (Notice) at 1-2.

³ *Id.*

represented by an attorney authorized to practice law in Colorado.⁴ However, an individual may appear without an attorney on behalf of a company after establishing its eligibility to do so.⁵ To be eligible to be represented by a non-attorney, all the below conditions must be met:

- (a) The company must not have more than three owners;
- (b) The amount in controversy must not exceed \$15,000; and
- (c) The non-attorney individual seeking to represent the company must provide the Commission with satisfactory evidence demonstrating his or her authority to represent the company in the proceeding.⁶

9. It is presumed that a corporation's officers, a partnership's partners, a limited partnership's members, and persons authorized to manage a limited liability company have authority to represent the company in the proceeding.⁷

10. The Application states that Mountain Star seeks to be represented by a non-attorney.⁸ Mr. Roman Lysenko, Mountain Star's owner and operator, filed the Application; is the only individual named in the Application; is identified as Mountain Star's designated agent and contact person for this Proceeding; and manages Mountain Star.⁹ The ALJ construes the Application as requesting Commission approval for Mr. Lysenko to represent Mountain Star in this Proceeding. The Application establishes that Mr. Lysenko manages Mountain Star's operations, and thus is authorized to represent Mountain Star; that Mountain Star does not have more than three owners; and that the amount in controversy does not exceed \$15,000.¹⁰ Based on the above authority and the Application, the ALJ finds that Mountain Star has established that it is

⁴ Rule 1201(a) of the Commission's Rules of Practice and Procedure, 4 *Code of Colorado Regulations* (CCR) 723-1.

⁵ Rule 1201(b)(II), 4 CCR 723-1 and § 13-1-127, C.R.S.

⁶ Rule 1201(b)(II), § 13-1-127(2) and (2.3)(c), C.R.S.

⁷ § 13-1-127(2) and (2.3)(c), C.R.S.

⁸ Application at 7.

⁹ *Id.* at 1-2 and 5. *See generally*, Application at 1-7.

¹⁰ *Id.* at 1-2, 5 and 7.

eligible to be represented by a non-attorney, Mr. Roman Lysenko. As such, Mr. Lysenko is permitted to represent Mountain Star in this Proceeding.

B. Motion to Strike and Denvers Airport Transportation's Intervention

11. 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).¹¹ 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 carrier's letter of 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.¹² An intervener's letter of authority provides the basis for the legally protected right which an intervener claims may be impacted by the proceeding.¹³ Thus, when assessing whether an intervention of right meets the applicable standards, it is important to determine whether the intervener'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.

12. Persons or entities seeking to permissively intervene must: state the specific grounds relied upon for intervention; identify the claim or defense within the scope of the Commission's jurisdiction on which the requested intervention is based (including the specific interest that justifies intervention); explain why the filer is positioned to represent that interest in a manner that will advance the just resolution of the proceeding; and must demonstrate that the

¹¹ Rule 1401(b) and (c), 4 CCR 723-1. See § 40-6-109(a), C.R.S.; and *RAM Broadcasting of Colo. Inc., v. Public Utilities Comm'n*, 702 P.2d 746, 749 (Colo. 1985).

¹² Rule 1401(b) and (f)(I), 4 CCR 723-1.

¹³ See *id.*

subject proceeding may substantially affect the pecuniary or tangible interest of the movant and that the movant's interests would not otherwise be adequately represented.¹⁴

13. An applicant objecting to a motion to intervene of right may do so by filing a motion to strike such interventions.¹⁵ An applicant objecting to a motion seeking to permissively intervene may do so by filing a response to the same within seven days after service of the motion to permissively intervene.¹⁶

14. Generally, responses to motions must be filed within 14 days after service of the motion.¹⁷ The Commission may deem a failure to file a response to a motion as confessing the motion.¹⁸

15. The Motion to Strike asserts that Denver's Airport Transportation's Intervention does not include a copy of its letter of authority, and does not establish that its authority is in good standing, contrary to Rule 1401(f)(I), 4 CCR 723-1.¹⁹ The Motion explains that the Intervention was filed based on Recommended Decision No. R23-0806 in Proceeding No. 23A-0457CP issued on December 6, 2023 (hereinafter Decision No. R23-0806), and that the same Decision subjects the authority to conditions that have not been met.²⁰ It explains that Denver's Airport Transportation does not have an active Commission-issued permit.²¹

16. As to its alternative request to permissively intervene, the Motion argues that Denver's Airport Transportation's Intervention fails establish that its pecuniary or tangible interests may be substantially impacted by this Proceeding, because the Application involves extending

¹⁴ Rule 1401(c), 4 CCR 723-1.

¹⁵ Rule 1401(b), 4 CCR 723-1.

¹⁶ Rule 1401(c), 4 CCR 723-1.

¹⁷ Rule 1400(b), 4 CCR 723-1.

¹⁸ Rule 1400(d), 4 CCR 723-1.

¹⁹ Motion to Strike at 1.

²⁰ *Id.*

²¹ *Id.*

service to and from a single hotel and because Denver's Airport Transportation was only just granted an authority, which will cover a large geographical service territory.²²

17. The Motion also objects to the Intervention because it was filed late. The Motion asserts that Denver's Airport Transportation failed to establish good cause for its late filing.²³ The Motion explains that the asserted cause for the late filing, counsel's staffing shortage and errors do not establish good cause because it was fully within counsel's control to ensure that filings are made on time and to train staff on filing deadlines.²⁴ The Motion argues that good cause should be limited to matters outside of a party's control, such as technical difficulties with the Commission's E-Filing service or being hospitalized.²⁵ It argues that if the Intervention is accepted despite being late, this will prejudice Mountain Star, and create a grace period for interventions to be accepted without a sufficient reason, but only with a "Sorry, we made a mistake."²⁶ Mountain Star explains that had other interventions been filed, adding one more intervenor would not make a significant difference.²⁷ That is not the case here, as no other interventions have been filed.²⁸ The Motion asserts that during the weekly meeting at which the Application was discussed, advisory staff recommended that the Application be deemed complete and granted.²⁹ Accepting the Intervention upsets this, and means that the Application must go through the full 250-day hearing process, which prejudices Mountain Star.³⁰

18. Turning to the Intervention, Denver's Airport Transportation asserts that it may intervene as of right because it has a legally protected interest in this Proceeding based on its

²² *Id.* at 2.

²³ *Id.*

²⁴ *Id.*

²⁵ *Id.*

²⁶ *Id.*

²⁷ *Id.*

²⁸ *Id.*

²⁹ *Id.*

³⁰ *Id.*

authority, granted on December 6, 2023, (by Decision No. R23-0806), that includes a service territory which overlaps with the area which the Application seeks to serve.³¹ It argues that it is ready, willing, and able to provide service and that if the Application is granted, that “Tour Estes” will be financially harmed, as this would duplicate service that Denver Airport Transportation was just authorized to provide.³²

19. The Intervention states, “[n]otably, Applicant opposed Denver Airport Transportation’s authority application, and agreed to withdraw its opposition,” if Denver Airport Transportation agreed to restrict its authority against transportation between Red Rocks and Denver (which it did).³³ It argues that Applicant now seeks to usurp Denver Airport Transportation’s monopoly to provide transportation between Red Rocks and Jefferson County, “including all hotels in Golden.”³⁴

20. In the alternative, the Intervention seeks to permissively intervene.³⁵ In support, Denver Airport Transportation argues that granting the Application would authorize “duplicating services to those Denver Airport Transportation provides” and will substantially affect its pecuniary and tangible interests.³⁶ It asserts that it has spent significant resources to obtain its authority, and that the proposed authority would divert passengers and revenue from it.³⁷

21. Denver Airport Transportation asks that its Intervention be accepted, despite being filed one day after the expiration of the intervention period.³⁸ In support, Denver Airport Transportation asserts that its attorney experienced an unexpected staffing shortage and that new

³¹ Intervention at 1-2.

³² *Id.* at 2. The ALJ construes the reference to Tour Estes as an inadvertent error which should have referenced Denver Airport Transportation.

³³ *Id.*

³⁴ *Id.*

³⁵ *Id.* at 3.

³⁶ *Id.*

³⁷ *Id.*

³⁸ *Id.*

staff made an error that resulted in counsel not receiving the Commission's Notice (of the Application) until the day the Intervention was filed (February 2, 2024).³⁹ It argues that the one-day delay in filing its Intervention will not unduly prejudice or delay the Applicant or the Commission and that good cause exists to accept the late Intervention.⁴⁰

22. Because Denvers Transportation failed to file a response to the Motion to Strike, the ALJ deems the Motion to Strike confessed as permitted by Rule 1400(d), 4 CCR 723-1.

23. Denvers Airport Transportation did not file a copy of its letter of authority with its Intervention, contrary to Rule 1401(f)(I), 4 CCR 723-1. It provides no explanation for this failure, instead solely relying on a Commission decision (which it also did not provide with its Intervention), granting Denvers Airport Transportation an authority. While the Motion to Strike points out that Denvers Airport Transportation was *conditionally* granted an authority, the Intervention does not disclose this significant detail in its Intervention. Nor does Denvers Airport Transportation assert that it has met the conditions to be granted the authority. It also does not identify a Commission-issued permit number; or assert that its permit is in good standing. Thus, even taking its Intervention at face value, Denvers Airport Transportation does not contradict the Motion to Strike's assertions that Denvers Airport Transportation does not have a Commission-issued permit that is in good standing.

24. Significantly, although the Motion to Strike was filed on February 5, 2024, Denvers Airport Transportation has still not filed its letter of authority. This means that although its failure to file its letter of authority and to establish that it has a permit in good standing was brought to its attention several weeks ago, Denvers Airport Transportation chose not to take action to protect its

³⁹ *Id.* at 3-4.

⁴⁰ *Id.* at 4.

alleged right to intervene.⁴¹ Because it failed to file its letter of authority, Denver's Airport Transportation has not established that it has a legally protected right to operate in a manner that may be impacted by the Application's requested authority.

25. Based on the foregoing and the Intervention, and taking the assertions in the Motion to Strike as confessed, the ALJ finds that Denver's Airport Transportation failed to meet the requirements in Rule 1401(f)(I) to demonstrate that it has a Commission-issued permit that is in good standing and to file a copy of its letter of authority. As such, the ALJ concludes that Denver's Airport Transportation's failed to establish that it may intervene as of right per Rule 1401(f)(I), 4 CCR 723-1.

26. Denver's Airport Transportation's alternative request to permissively intervene is based wholly on having an authority that overlaps with the Application. As already noted, Denver's Airport Transportation failed to establish that it has a Commission-issued permit. As such, its request to permissively intervene suffers from one of the same fatal flaws as its intervention of right. In addition, taking the assertions in the Motion to Strike as confessed, the ALJ concludes that Denver's Airport Transportation failed to establish how the Application, which seeks to provide transportation to and from a single hotel, may substantially impact its pecuniary or tangible interests. For these reasons, and those in the Motion to Strike, the ALJ concludes that Denver's Airport Transportation failed to meet the requirements to intervene permissively per Rule 1401(c), 4 CCR 723-1.

⁴¹ The ALJ does not provide Denver's Airport Transportation another opportunity to file its letter of authority given that this significant failure in its Intervention was explicitly pointed out in the Motion to Strike, and that it chose not to file its letter of authority or otherwise respond to the Motion to Strike despite more than 20 days passing since the Motion to Strike was filed.

27. For the reasons and authorities discussed, the Motion to Strike is granted and Denver's Airport Transportation's Intervention is denied.⁴² Denver's Airport Transportation is not a party to this Proceeding.

C. Application

28. As no other entity filed a request to intervene, and Denver's Airport Transportation's Intervention is denied, the Application is deemed uncontested. Because the Application is uncontested, verified, includes sufficient facts to decide the relief sought, is supported by the required documents and information, and a hearing is not required, the ALJ will consider the Application based on the record without a hearing.⁴³

29. The Commission has authority to issue certificates to operate as a common carrier under Colo. Const. art. XXV, §§ 40-10.1-103(1) and 203(1), C.R.S., (2023).⁴⁴ For these reasons and based on the record, the ALJ concludes that the Commission has jurisdiction and authority over the Application.

30. Common carriers may only operate with a Commission-issued certificate declaring that the present or future public convenience and necessity requires or will require the common carrier's operation.⁴⁵ Applicants for a CPCN must establish their financial, managerial, and operational fitness to conduct the proposed operations.⁴⁶

⁴² As the ALJ has addressed the Intervention on its merits, Denver's Airport Transportation's request for the Intervention to be accepted out-of-time is moot.

⁴³ § 40-6-109(5), C.R.S.; Rule 1403, 4 CCR 723-1.

⁴⁴ See *Miller Brothers, Inc. v. Pub. Utils. Comm'n*, 525 P. 2d 443, 446 (Colo. 1974).

⁴⁵ § 40-10.1-201(1), C.R.S.

⁴⁶ Rule 6203(a)(XI) of Rules Regulating Transportation by Motor Vehicle, 4 CCR 723-6.

31. As the proponent of an order, Mountain Star bears the burden of proof by a preponderance of the evidence.⁴⁷ The preponderance standard requires the fact finder to determine whether the existence of a contested fact is more probable than its non-existence.⁴⁸

32. Mountain Star seeks extend operations under its CPCN, PUC No. 55952, which authorizes it to operate as a common carrier by motor vehicle for hire for the:

- (I) Transportation of passengers in call-and-demand sightseeing service originating in Denver and Boulder Counties, to all points in the Counties of Denver, Boulder, Clear Creek, Douglas, El Paso, Grand, Jefferson, and Larimer, State of Colorado, returning to the origination point.
- (II) Transportation of passengers in scheduled service and call-and-demand shuttle service: (A) Between all points in Denver County, on the one hand, and all points in Eagle county, on the other hand; (B) Between all points in Denver County, on the one hand, and all points in Pitkin County, on the other hand; and (C) Between all points in the Counties of Eagle and Pitkin, State of Colorado.
- (III) Transportation of passengers in call-and-demand shuttle service between all points in Denver County, on the one hand, and Red Rocks Park and Amphitheatre, State of Colorado, on the other hand.

RESTRICTIONS:

Item (II) is restricted against the transportation of passengers in vehicles with a manufacturer's rate passenger capacity of less than 9 passengers, including the driver.

Item (III) is restricted against the transportation of passengers to and/or from Denver International Airport.⁴⁹

33. The Application seeks to extend Item (III) above to include:

Transportation of passengers in call-and-demand shuttle service between all points in Denver County and Origin Hotel Red Rocks at 18485 West Colfax Avenue in

⁴⁷ §§ 13-25-127(1) and 24-4-205(7), C.R.S.; Rule 1500, 4 CCR 723-1.

⁴⁸ *Swain v. Colorado Dep't of Revenue*, 717 P.2d 507, 508 (Colo. App. 1985). A party has met this burden of proof when the evidence, on the whole and however slightly, tips in favor of that party. *Schocke v. Dep't of Revenue*, 719 P.2d 361, 363 (Colo. App. 1986). Although the preponderance standard applies, the evidence must be substantial. Substantial evidence is such relevant evidence as a reasonable person's mind might accept as adequate to support a conclusion. *Schocke v. Dep't of Revenue*, 719 P.2d 361, 363 (Colo. App. 1986).

⁴⁹ Notice at 2.

Golden, Colorado 80401, on the one hand, and Red Rocks Park and Amphitheatre, State of Colorado, on the other hand.⁵⁰

34. The restrictions to Item (III) above would also apply to the extended authority.⁵¹

35. The record establishes that Mountain Star is a limited liability corporation organized in Colorado in 2011 and is in good standing.⁵² The verified Application establishes that Mountain Star is familiar with the Rules Regulating Transportation by Motor Vehicle, 4 CCR 723-6, and agrees to be bound by, and to comply with, those Rules.⁵³ The Application establishes that Mountain Star has sufficient equipment with which to render the proposed service, including nine vehicles with significant seating capacity, professional dispatch software, GPS trackers, and a principal office in Centennial, Colorado.⁵⁴ It also establishes that Mountain Star is financially able to conduct the operations under the requested authority.⁵⁵ The Application establishes that Mountain Star has provided transportation services such as private car, limousine, sightseeing and shuttle services for 13 years and that its owner (Mr. Lysenko) has significant managerial experience in the transportation industry, having owned and operated Mountain Star for 13 years.⁵⁶ Finally, the verified Application indicates there is a need for the proposed service.⁵⁷ For the foregoing reasons and authorities, the ALJ concludes that Mountain Star met its burden to establish its financial, managerial, and operational fitness to conduct the proposed operations and that the public necessity and convenience requires it. Because Mountain Star is fit, financially and otherwise to perform the proposed service and because the other prerequisites have been met, the

⁵⁰ Application at 3. *See* Notice at 2.

⁵¹ Application at 3. *See* Notice at 2.

⁵² *See* Certificate of Good Standing Filed on December 26, 2023.

⁵³ Application at 7.

⁵⁴ *Id.* at 2, 4 and 5.

⁵⁵ *Id.* at 4-5.

⁵⁶ *Id.* at 5.

⁵⁷ *Id.* at 4.

ALJ concludes that the requested authority should be granted, subject to the conditions in the ordering paragraphs below.

36. Contrary to Denver's Airport Transportation's assertion, the approved extended authority does not authorize Mountain Star to provide transportation between Red Rocks and all of Jefferson County.⁵⁸ In fact, Jefferson County is not included in the approved extended authority at all. And, while the approved extended authority includes Denver County, Mountain Star is already authorized to provide shuttle service between all points in Denver County.⁵⁹ As such, the Application seeks a narrow extension of Mountain Star's existing authority so that it can also provide shuttle service between the referenced hotel and Red Rocks.

37. In accordance with § 40-6-109, C.R.S., the ALJ now transmits to the Commission the record in this proceeding and recommends that the Commission enter the following order.

III. ORDER

A. The Commission Orders That:

1. Mr. Roman Lysenko, the owner and operator of Mountain Star Transportation LLC, doing business as Explorer Tours and/or Red Rocks Shuttle (Mountain Star), is authorized to represent Mountain Star in this Proceeding.

2. Consistent with the above discussion, the Motion to Strike Intervention as of Right or Response to Motion to Permissively Intervene that Mountain Star filed on February 5, 2024 is granted.

⁵⁸ See Intervention at 2.

⁵⁹ See Notice at 2.

3. Denvers Airport Transportation, LLC's Out-of-Time Notice of Intervention as of Right, or in the Alternative, Motion to Intervene of Denver Airport Transportation, LLC and Entry of Appearance is denied consistent with the above discussion.

4. Mountain Star's Application filed on December 26, 2023 is conditionally granted. Mountain Star's Certificate of Public Convenience and Necessity to Operate as a Common Carrier of Passengers by Motor Vehicle, PUC No. 55952 is extended as requested, as set forth below:

Authority to operate as a common carrier of passengers by motor vehicle for hire for the:

- (I) Transportation of passengers in call-and-demand sightseeing service originating in Denver and Boulder Counties, to all points in the Counties of Denver, Boulder, Clear Creek, Douglas, El Paso, Grand, Jefferson, and Larimer, State of Colorado, returning to the origination point.
- (II) Transportation of passengers in scheduled service and call-and-demand shuttle service: (A) Between all points in Denver County, on the one hand, and all points in Eagle county, on the other hand; (B) Between all points in Denver County, on the one hand, and all points in Pitkin County, on the other hand; and (C) Between all points in the Counties of Eagle and Pitkin, State of Colorado.
- (III) Transportation of passengers in call-and-demand shuttle service between all points in Denver County and Origin Hotel Red Rocks at 18485 West Colfax Avenue in Golden, Colorado 80401, on the one hand, and Red Rocks Park and Amphitheatre, State of Colorado, on the other hand.

RESTRICTIONS:

Item (II) is restricted against the transportation of passengers in vehicles with a manufacturer's rate passenger capacity of less than 9 passengers, including the driver.

Item (III) is restricted against the transportation of passengers to and/or from Denver International Airport.

5. Mountain Star must operate in accordance with all applicable Colorado Laws and Commission rules.

6. Mountain Star may not commence operation under the extended authority granted until it has complied with the requirements of Colorado law and Commission rules, including without limitation:

- (a) causing proof of insurance (Form E or self-insurance) or surety bond (Form G) coverage to be filed with the Commission;
- (b) paying to the Commission, the motor vehicle fee for each vehicle to be operated under authority granted by the Commission, or in lieu thereof, paid the fee for such vehicle(s) pursuant to the Unified Carrier Registration Agreement;
- (c) having an effective tariff on file with the Commission. To this end, Denver's Airport Transportation must file an advice letter and tariff on not less than ten days' notice. The advice letter and tariff must be filed as a new Advice Letter proceeding and must comply with all applicable rules. In calculating the proposed effective date, the date received at the Commission is not included in the notice period and the entire notice period must expire prior to the effective date. (Additional tariff information can be found on the Commission's website at www.colorado.gov/pacific/dora/common-carriers); and
- (d) paying the applicable issuance fee.

7. If Mountain Star does not cause proof of insurance or surety bond to be filed, pay the appropriate motor vehicle fees, file an advice letter and proposed tariff, and pay the issuance fee **within 60 days** of the effective date of this Decision, then the grant of the extended Permit will be void. For good cause shown, the Commission may grant additional time for compliance if the request for additional time is filed within 60 days of the effective date of this Decision.

8. The Commission will notify Mountain Star in writing when the Commission's records demonstrate compliance with ordering paragraph 6 above.

9. Proceeding No. 23A-0621CP-EXT is closed.

10. This Recommended Decision shall be effective on the day it becomes the Decision of the Commission, if that is the case, and is entered as of the date above.

11. As provided by § 40-6-109, C.R.S., copies of this Recommended Decision shall be served upon the parties, who may file exceptions to it.

12. If no exceptions are filed within 20 days after service or within any extended period of time authorized, or unless the decision is stayed by the Commission upon its own motion, the recommended decision shall become the decision of the Commission and subject to the provisions of § 40-6-114, C.R.S.

13. If a party seeks to amend, modify, annul, or reverse basic findings of fact in its exceptions, that party must request and pay for a transcript to be filed, or the parties may stipulate to portions of the transcript according to the procedure stated in § 40-6-113, C.R.S. If no transcript or stipulation is filed, the Commission is bound by the facts set out by the administrative law judge and the parties cannot challenge these facts. This will limit what the Commission can review if exceptions are filed.

14. If exceptions to this Recommended Decision are filed, they shall not exceed 30 pages in length, unless the Commission for good cause shown permits this limit to be exceeded.

(S E A L)



THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

MELODY MIRBABA

Administrative Law Judge

ATTEST: A TRUE COPY

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

Rebecca E White,
Director