

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 24A-0071CP

IN THE MATTER OF THE APPLICATION OF AURORA LIMOUSINE LLC DOING BUSINESS AS SUPERIOR AIRPORT TRANSIT 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
CONOR F. FARLEY
ADDRESSING REPRESENTATION AND INTERVENTIONS,
PROVIDING OPPORTUNITY FOR EACH PARTY TO FILE
A STATEMENT REGARDING HEARING THAT
IDENTIFIES THE PARTY'S PREFERENCE FOR A
REMOTE, HYBRID, OR IN-PERSON HEARING,
ESTABLISHING PROCEDURAL SCHEDULE, AND
PROVIDING FURTHER INSTRUCTIONS**

Mailed Date: April 12, 2024

I. STATEMENT

A. Background

1. On February 9, 2024, Aurora Limousine LLC, doing business as Superior Airport Transit LLC (Superior Airport Transit) filed the application described in the caption above (Application).

2. On February 14, 2024, Superior Airport Transit filed an amendment to the Application (Amended Application).

3. On February 20, 2024, the Commission issued public notice of the authority sought by Superior Airport Transit in the Amended Application as follows:

For authority to operate as a common carrier by motor vehicle for hire for the transportation of passengers in call-and-demand shuttle service between all points within the following: Arvada, Aurora, Boulder, Breckenridge, Brighton, Broomfield, Castle Rock, Colorado Springs, Commerce City, Denver, Dillon, Englewood, Estes Park, Evans, Evergreen, Fairplay, Firestone, Fort Collins, Fort Lupton, Fort Morgan, Georgetown, Glenwood Springs, Golden, Gunnison, Jamestown, Littleton, Longmont, Loveland, Monument, Morrison, Parker, Thornton, Vail, Westminster, Wheat Ridge, and Winter Park, State of Colorado.

4. On February 22, 2024, Grand Mountain Rides, LLC (Grand Mountain Rides) filed a Petition to Intervene and Entry of Appearance (Grand Mountain Rides' Petition to Intervene). In the Petition, Grand Mountain Rides states that it operates in the Winter Park area, but does not have Commission-issued authority other than a luxury limousine permit. Nevertheless, Grand Mountain Rides argues that granting the Application will "only saturate the market and ensure everyone struggles to survive."¹

5. On March 20, 2024 and March 21, 2024, Mountain Star Transportation LLC doing business as Explorer Tours (Explorer Tours) and Denvers Airport Transportation, LLC (Denvers Airport Transportation) filed interventions and entries of appearance, respectively. In their filings, Explorer Tours and Denvers Airport Transportation stated that the authority sought by Superior Airport Transit would, if granted, conflict with the authority granted by their CPCN Nos. 55952 and 55995, respectively. Explorer Tours and Denvers Airport Transportation also stated that they would be harmed if the Application is granted.

6. On March 27, 2024, the Commission deemed the Application complete and referred the proceeding by minute entry to an Administrative Law Judge. The proceeding was subsequently assigned to the undersigned ALJ.

¹ Grand Mountain Rides' Petition at 1.

B. Representation**1. Superior Airport Transit**

7. Shezad Mian signed the Application on behalf of Superior Transit Authority and indicated that he wants to represent Superior Transit Authority in this proceeding. Commission Rule 1201(a) requires a party in a proceeding before the Commission to be represented by an attorney authorized to practice law in the State of Colorado.² However, an individual who is not an attorney may represent a company if three conditions are met: (a) the company does not have more than three owners; (b) the amount in controversy does not exceed \$15,000; and (c) the non-attorney individual seeking to represent the company provides satisfactory evidence demonstrating his or her authority to represent the company in the proceeding.³ There is a presumption 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 a proceeding.⁴ A written resolution from a company specifically authorizing the individual to represent the company's interests in the proceeding may also be relied upon as evidence of the individual's authority to represent the company.⁵

8. Here, Superior Airport Transit must either obtain counsel or establish that Rule 1201 does not require it to be represented in this proceeding by an attorney currently in good standing before the Supreme Court of the State of Colorado. The deadline for counsel for Superior Airport Transit to enter an appearance in this matter, or for Superior Airport Transit to

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

³ Rule 1201(b)(II), § 13-1-127(2) and (2.3)(c), C.R.S.

⁴ § 13-1-127(2) and (2.3)(c), C.R.S.

⁵ § 13-1-127(3), C.R.S.

establish that Rule 1201 does not require them to be represented by legal counsel in this matter, is **April 23, 2024**. Superior Airport Transit is advised that failure to either: (a) have legal counsel file an entry of appearance on its behalf; or (b) establish that Rule 1201 does not require it to be represented by an attorney in this proceeding, may result in dismissal of Superior Airport Transit's Application.

9. Superior Airport Transit is on notice that, if it chooses to be represented by a non-attorney in this proceeding, it will be bound by, and held to, the same procedural and evidentiary rules that attorneys must follow. Superior Airport Transit will not be held to a lesser standard because it has chosen not to have an attorney represent it in this proceeding.

2. Explorer Tours

Non-attorney Roman Lysenko signed Explorer Tours' Petition for Intervention and stated therein that he is the owner of Explorer Tours and will represent the company in this proceeding. In the Petition for Intervention, Explorer Tours states that: (a) it does not believe the amount in controversy in this proceeding exceeds \$15,000; (b) Explorer Tours does not have more than three owners; and (c) Mr. Lysenko is the owner of Explorer Tours.

10. Based on the foregoing, the undersigned ALJ finds and concludes that, under Rule 1201(a) of the Commission's Rules of Practice and Procedure⁶ and § 13-1-127, C.R.S., Explorer Tours has established that Mr. Lysenko is permitted to represent Explorer Tours. Explorer Tours is on notice that it will be bound by, and held to, the same procedural and evidentiary rules that attorneys must follow. Explorer Tours will not be held to a lesser standard because it has chosen not to have an attorney represent it in this proceeding.

⁶ 4 Code of Colorado Regulations (CCR) 723-1.

C. Grand Mountain Rides' Petition to Intervene

11. Commission Rule 1401(c) requires a petition for intervention to:

state the specific grounds relied upon for intervention; 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; and why the filer is positioned to represent that interest in a manner that will advance the just resolution of the proceeding. The motion must demonstrate that the subject proceeding may substantially affect the pecuniary or tangible interests of the movant (or those it may represent) and that the movant's interests would not otherwise be adequately represented.⁷

Under Rule 1401(c), therefore, Grand Mountains Rides bears the burden of establishing: (a) the claim or defense within the scope of the Commission's jurisdiction that its requested intervention is based upon; (b) its pecuniary or tangible interest that may be substantially affected by the outcome of the proceeding and why he is positioned to represent that interest in a manner that will advance the just resolution of the proceeding; and (c) that its identified interest would not be otherwise adequately represented.

12. Here, Grand Mountain Rides has not carried its burden of establishing that it should be permitted to intervene in this proceeding. Specifically, Grand Mountain Rides has not explicitly identified its "pecuniary or tangible interest that may be substantially affected by the outcome of the proceeding and why he is positioned to represent that interest in a manner that will advance the just resolution of the proceeding." Grand Mountain Rides suggests that granting the Application will impact its financial interest by taking business away from it. However, the Application is for shuttle service and Grand Mountain Rides has a luxury limousine permit, which are distinct services aimed at different consumers. Grand Mountain

⁷ Rule 1401(c) of the Commission's Rules of Practice and Procedure, 4 Code of Colorado Regulations (CCR) 723-1.

Rides has not explained how a luxury limousine permit provides it with a sufficient interest to intervene in a proceeding addressing an application for a CPCN for shuttle service.

Grand Mountain Rides also has not cited, and the ALJ is unaware of, authority allowing a holder of a luxury limousine permit to intervene in an proceeding addressing an application for a CPCN to provide shuttle service. As a result, Grand Mountain Rides has not carried its burden of proving the second element noted above.

13. Grand Mountain Rides also has not explained how its interest will not be adequately represented by Explorer Tours and/or Denver's Airport Transportation. Both have intervened to contest the Application. As a result, Grand Mountain Rides has not carried its burden of proving the third element required under Rule 1401(c).

14. Based on the foregoing, the Petition to Intervene by Grand Mountain Rides will be denied. Grand Mountain Rides can file relevant public comments in this proceeding pursuant to Rule 1509. The ALJ will consider any such comment(s) in rendering the Recommended Decision in this proceeding.

D. Statement Regarding Hearing

15. In the Application, Superior Airport Transportation did not address the location or the method of conducting the hearing. Likewise, Explorer Tours and Denver's Airport Transportation did not address either topic in their filings.

16. 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. Each party will be given the opportunity to file a Statement Regarding Hearing identifying the party's preference for an in-person, remote, or hybrid hearing. If a party prefers an in-person hearing, the party must identify its preferred location and provide an explanation of why the hearing should be conducted at the party's preferred location. Any additional information supporting a request for a particular method of conducting the hearing (*e.g.*, remote, hybrid, or in-person) can be included in a Statement Regarding Hearing.

18. The deadline for the filing of the Statements Regarding Hearing will be **April 23, 2024**. The parties are on notice that the ALJ will retain discretion to change the method by which the hearing will be conducted (*e.g.*, remote, hybrid, or in-person) and/or the location of the hearing.

E. Procedural Schedule

19. To facilitate the orderly and efficient litigation of this proceeding, the ALJ finds and concludes that a procedural schedule should be adopted, so that each party will have an opportunity prior to the hearing to review a summary of the anticipated testimony of each witness the other party intends to call at the hearing, and to review copies of the exhibits the other party will present at the hearing. Therefore, this Decision will order the parties to file, and to serve on each other, a list of witnesses, a summary of the testimony of each witness, and copies of the exhibits the filing party intends to present at the hearing.

20. On or before **June 3, 2024**, Superior Airport Transit will be ordered to file and serve on Explorer Tours and Denver's Airport Transportation: (a) a list that identifies the witnesses Superior Airport Transit intends to call at the hearing, the last known address and

telephone number of each witness, and a summary of the anticipated testimony of each witness; and (b) copies of the exhibits Superior Airport Transit will present at the hearing.

21. On or before **June 21, 2024**, Explorer Tours and Denvers Airport Transportation will each be ordered to file and serve on Superior Airport Transit: (a) a list that identifies the witnesses Explorer Tours and Denvers Airport Transportation each intend to call at the hearing, the last known address and telephone number of each witness, and a summary of the anticipated testimony of each witness; and (d) copies of the exhibits Explorer Tours and Denvers Airport Transportation each will present at the hearing.

22. As referenced in this Decision, serving a party with any document (*e.g.*, witness and exhibit lists and exhibits) means that the party is required to give the document to the other party or parties to the proceeding. Service must be accomplished pursuant to Rule 1205 of the Commission's Rules of Practice and Procedure.⁸ The Commission's Rules (including Rule 1205) are available on the Commission's website (<https://puc.colorado.gov/pucrules>) and in hard copy from the Commission.

23. All parties must establish through a certificate of service that they have served a filed document on all other parties in the proceeding. A certificate of service is a statement indicating how and when a document was served on the other party (*e.g.*, the filing was served by placing the document in the United States mail, first class postage-prepaid to an identified address on an identified date).⁹

24. All exhibits shall be identified by sequential numbers (*e.g.*, Exhibit 1, Exhibit 2, and Exhibit 3). Each exhibit shall include the following information: a) exhibit number, b) proceeding number, c) name of the witness who will testify to the exhibit's foundation, and

⁸ 4 CCR 723-1.

⁹ See Rule 1205(e), 4 CCR 723-1.

d) the date of the hearing. The parties shall work together to ensure that there are no overlaps in the numbering of the exhibits.

25. The filing of an exhibit with the Commission does not, by itself, admit an exhibit into the evidentiary record of the hearing.

26. If any exhibit is longer than two pages, the party offering the exhibit shall sequentially number each page of the exhibit.

27. The parties are on notice that: (a) any witness may be prohibited from testifying, except in rebuttal, unless that witness is identified on the list of witnesses filed and served as required herein; (b) failure to provide an accurate description of the anticipated testimony of a witness may also result in an order prohibiting such witness from testifying; and (c) any exhibit may not be received in evidence, except in rebuttal, unless filed and served as required herein.

F. Additional Advisements

28. The Parties are advised and are on notice that this proceeding is governed by the Rules of Practice and Procedure found at 4 CCR 723-1. The ALJ expects the Parties to be familiar with and to comply with these rules. The rules are available on the Commission's website (<https://puc.colorado.gov/pucrules>) and in hard copy from the Commission.

II. ORDER

A. It Is Ordered That:

1. The Petition to Intervene filed by Grand Mountain Rides, LLC on February 22, 2024 is denied.

2. Aurora Limousine LLC, doing business as Superior Airport Transit LLC (Superior Airport Transit), Mountain Star Transportation LLC doing business as Explorer Tours

(Explorer Tours), and Denvers Airport Transportation, LLC (Denvers Airport Transportation) are the parties in this proceeding.

3. **On or before April 23, 2024**, Superior Airport Transit must cause counsel to file an entry of appearance on its behalf, or establish that it is eligible to be represented by a non-attorney under Rule 1201, 4 Code of Colorado Regulations 723-1.

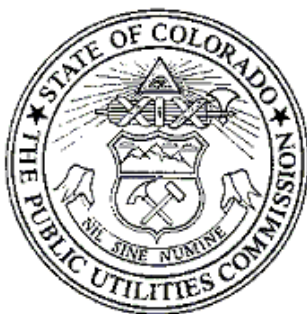
4. The deadline to file any Statement Regarding Hearing containing the information described above is **April 23, 2024**.

5. On or before **June 3, 2024**, Superior Airport Transit shall file and serve on Explorer Tours and Denvers Airport Transportation: (a) a list that identifies the witnesses Superior Airport Transit intends to call at the hearing, the last known address and telephone number of each witness, and a summary of the anticipated testimony of each witness; and (b) copies of the exhibits Superior Airport Transit will present at the hearing.

6. On or before **June 21, 2024**, Explorer Tours and Denvers Airport Transportation shall each file and serve on Superior Airport Transit: (a) a list that identifies the witnesses Explorer Tours and Denvers Airport Transportation each intend to call at the hearing, the last known address and telephone number of each witness, and a summary of the anticipated testimony of each witness; and (b) copies of the exhibits Explorer Tours and Denvers Airport Transportation each will present at the hearing.

7. This Decision is effective immediately.

(S E A L)



THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

CONOR F. FARLEY

Administrative Law Judge

ATTEST: A TRUE COPY

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

Rebecca E. White,
Director