

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 24A-0123CP

IN THE MATTER OF THE APPLICATION OF MIDNIGHT RIDERS 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
ROBERT I. GARVEY
SCHEDULING HEARING, ESTABLISHING
PROCEDURAL SCHEDULE, AND PROVIDING FURTHER
INSTRUCTIONS**

Mailed Date: June 3, 2024

I. STATEMENT

1. On March 15, 2024, 3940 Midnight Riders LLC (Midnight Riders) initiated the captioned proceeding by filing an application seeking a Certificate of Public Convenience and Necessity (CPCN) to Operate as a Common Carrier by Motor Vehicle for Hire (Application) with the Colorado Public Utilities Commission (Commission).

2. On March 21, 2024, Midnight Riders filed an amendment to the Application.

3. On March 25, 2024, the Commission provided public notice of the application to extend the permit by publishing a summary of the same in its Notice of Applications Filed:

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 in the Counties of Adams, Arapahoe, Denver,
Jefferson, and El Paso, State of Colorado.

4. On April 22, 2024, Mountain Star Transportation LLC, doing business as Explorer Tours (Explorer) filed its Intervention through Roman Lysenko. Mr. Lysenko is

identified as the president and owner of Explorer in the filing. This filing attached Commission Authority No. 55952 held by Explorer.

5. On April 24, 2024, Denver's Airport Transport, LLC (Denver's Airport) filed its Intervention through its counsel Gabriella Stockmayer. This filing noted Commission Authority No. 55995 held by Denver's Airport.

6. On May 1, 2024, the Commission deemed the application complete and referred it by minute entry to the undersigned Administrative Law Judge (ALJ) for disposition.

7. On May 21, 2024, by Decision R24-0343-I, a prehearing conference was scheduled for May 28, 2024.

II. PROCEDURAL SCHEDULE AND REMOTE HEARING

8. At the prehearing conference the parties agreed to the following procedural schedule:

- a. On or before **June 28, 2024**, Midnight Riders are ordered to file and serve on all intervenors: (a) a list that identifies the witnesses Midnight Riders 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 Midnight Riders will present at the hearing.
- b. On or before **July 19, 2024**, all Intervenor's are ordered to file and serve on Midnight Riders: (a) a list that identifies the witnesses the Intervenor 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 the Intervenor will present at the hearing.
- c. An evidentiary hearing shall be held on August 15, 2024, commencing at 9:00 am.

9. 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.¹ The Commission's Rules (including Rule 1205) are available on the Commission's website and in hard copy from the Commission.

10. 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).²

A. Unified Numbering System for Hearing Exhibits

11. Each party must (a) pre-mark all hearing exhibits with a hearing exhibit number within their assigned number block before uploading the exhibits to the party's designated box.com folder; (b) sequentially page-number each page of exhibits longer than two pages, with the first page number as page 1.

12. Attachment B outlines procedures and requirements for marking and formatting exhibits aimed at facilitating efficient and smooth electronic evidence presentations at the remote hearing. It is very important that the parties carefully review and follow all requirements in this Decision and Attachments A and B.

13. To efficiently organize the numbering and preparation of exhibits for the hearing, the parties shall use a unified numbering system for all hearing exhibits. Blocks of hearing exhibit numbers are assigned as follows:

- Midnight Riders is assigned hearing exhibit numbers 100 to 199;
- Explorer is assigned hearing exhibit numbers 200 to 299; and

¹ 4 CCR 723-1.

² See Rule 1205(e), 4 CCR 723-1.

- Denvers Airport is assigned hearing exhibit numbers 300 to 399.

B. Additional Procedural Notices and Advisements

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

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

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

17. The Parties are also on notice that failure to appear at the scheduled evidentiary hearing may result in decisions adverse to their interest.

C. Informational Video Conference Practice Session

18. The ALJ will hold an informal practice video conference session if requested by any Party to give the Parties an additional opportunity to practice using Zoom.

19. The Parties may contact the Commission Legal Assistants by email at casey.federico@state.co.us or stephanie.kunkel@state.co.us to schedule an informal practice video conference session.

20. If the Parties request a practice video conference they will receive information and a link to participate in the informal practice session by email.

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

22. 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.

D. Additional Advisements

23. 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.

III. ORDER

A. It Is Ordered That:

1. The procedural schedule as stated above is adopted.
2. An evidentiary hearing in this proceeding is scheduled as follows:

DATE: August 15, 2024

TIME: 9:00 a.m.

PLACE: Join by videoconference using Zoom

3. 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.

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

5. The Parties shall be held to the advisements in this Decision.
6. This Decision is effective immediately.

(S E A L)



THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

ROBERT I. GARVEY

Administrative Law Judge

ATTEST: A TRUE COPY

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

Rebecca E. White,
Director