

Decision No. R24-0712-I

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 24F-0073CP

GREEN JEEP TOURS LLC,

COMPLAINANT,

V.

PURPLE MOUNTAIN TOUR COMPANY LLC AND ZACHARY BUGG AND BROOKE
LYNN CARSWELL,

RESPONDENTS.

**INTERIM DECISION GRANTING MOTION TO
WITHDRAW, AND GRANTING MOTIONS FOR
EXTENSIONS OF TIME**

Mailed Date: October 2, 2024

I. STATEMENT AND PROCEDURAL HISTORY¹

1. On February 12, 2024, Green Jeep Tours LLC (“Complainant” or “Green Jeep”) commenced this Proceeding by filing a Formal Complaint against Purple Mountain Tour Company LLC (“Purple Mountain”); Zachary Bugg, Lay Representative of Purple Mountain; and Brooke Lynn Carswell, Managing Director of Purple Mountain (collectively, “Respondents”), alleging that Respondents have “offered to sell and ha[ve] sold individual

¹ Only the procedural history relevant to the issues addressed herein will be discussed. For a more thorough recitation of the procedural history of this Proceeding, please see Decision No. R24-0603-I.

tickets” for transportation services without the proper certificate of public convenience and necessity in violation of Rule 6016 of the Commission’s Rules Regulating Transportation by Motor Vehicles, 4 *Code of Colorado Regulations* (CCR) 723-6, and requests relief.

2. The Commission referred the matter by minute entry to an Administrative Law Judge (“ALJ”) on February 21, 2024.

3. Respondents submitted their Evidence of Satisfaction, Response to Complaint and Statement Regarding Hearing on April 5, 2024.

4. Respondents filed a Motion for Summary Judgment on May 29, 2024. Complainant filed a counter Motion for Summary Judgment on June 26, 2024. Decision No. R24-0603-I granted Respondents’ Motion for Summary Judgment in part and dismissed claims asserted against Respondents Bugg and Carswell individually. The remainder of Respondents’ Motion for Summary Judgment and the entirety of Complainant’s Motion for Summary Judgment were denied. Thus, the only claims remaining to be heard were Complainant’s allegations asserted against Respondent Purple Mountain.

5. The matter then proceeded to an evidentiary hearing on August 22, 2024, in Estes Park, Colorado. At the conclusion of the hearing, the undersigned ALJ verbally indicated her intent to issue a directed verdict in Respondent’s favor.

6. However, because the ALJ will need to issue a written decision, she granted the parties the opportunity to submit written Statements of Position (“SOPs”). The parties’ SOPs were due September 20, 2024.

7. Before the parties’ SOPs were due, Respondent filed a Motion for Attorney Fees and Costs (“Motion for Attorney Fees”) on September 11, 2024. Respondent argues that the claims Complainant asserted against it were frivolous and vexatious, and seeks an award of

attorney fees and costs totaling nearly \$25,000. A response to the Motion for Attorney Fees was due September 25, 2024.

8. On September 20, 2024, Complainant moved for an extension of time, up to and including October 4, 2024, within which to submit its SOP. In the Motion for Extension of Time to File Post Hearing Statement of Position (“Motion for Extension of Time to File SOP”), Complainant’s counsel indicated that he had not had an opportunity to confer with Complainant regarding the SOP because Complainant’s owner/operator, Nicole Schultz, was out of town and unavailable due to a family emergency.

9. Complainant also asked for extension of time to file a response to Respondent’s Motion for Attorney Fees. On September 25, 2024, the day a response to the Motion for Attorney Fees was due, Complainant filed a Motion for Extension of Time to File Response in Opposition to Motion for Attorney Fees and Costs (“Motion for Extension of Time to Respond to Request for Fees and Costs”), asking that it be granted up to and including October 9, 2024, to file a response to the Motion for Attorney Fees.

10. The next day, on September 26, 2024, Respondent filed its response to Complainant’s Motion for Extension of Time to File SOP. Respondent represented that it had “no opposition” to the Motion for Extension of Time to File SOP “provided the extension is mutual.” Complainant’s Motion for Extension of Time to File SOP is thus unopposed.

11. Respondent has not yet responded to Complainant’s Motion for Extension of Time to Respond to Request for Fees and Costs.

12. However, just two business days later, on September 30, 2024, Complainant’s counsel, Richard Bara, filed a Motion to Withdraw[,] Notice to Complainant and Waiver of Rule 1201(d) Time to Object (“Motion to Withdraw”). Complainant’s counsel states that his

differences with Complainant are irreconcilable and that attempts to resolve their dispute “have, to date, proven fruitless.” The Motion to Withdraw includes a listing of pending motions in this Proceeding and alerts Complainant to the applicable deadlines. Mr. Bara also asks that the Commission waive the ten-day time period set forth in Rule 1201(d) of the Commission’s Rules of Practice and Procedure, 4 CCR 723-1, within which any objections to the Motion to Withdraw must be filed.

II. MOTION TO WITHDRAW

13. Pursuant to Rule 1201(d), an attorney of record may move to withdraw as counsel for a litigant in a Proceeding before the Commission. Any notice of withdrawal must advise the litigant “of all pending hearing and procedural dates,” as well as advising the party “of its rights to object.”

14. The ALJ finds that Mr. Bara’s Motion to Withdraw meets all the criteria of Rule 1201(d).

15. In addition, the ALJ notes that at the evidentiary hearing held August 22, 2024, Complainant’s owner/operator, Ms. Schultz, represented to the undersigned ALJ that she wished to terminate Mr. Bara’s legal representation of Complainant. Thus, the ALJ infers that neither Ms. Schultz nor Complainant object to Mr. Bara’s withdrawal.

16. The ALJ will therefore grant Mr. Bara’s Motion to Withdraw.

III. MOTIONS FOR EXTENSION OF TIME

17. With respect to the two pending Motions for Extension of Time filed by Complainant, the undersigned ALJ will grant those, as well.

18. The ALJ notes that Respondent has expressly stated it does not oppose Complainant's request for an extension of time to file SOPs, so long as the extension is granted to both parties.

19. The ALJ finds and concludes that this request is reasonable given Ms. Schultz's unavailability due to a family emergency. Moreover, the ALJ notes, having granted Mr. Bara's request to withdraw as counsel, Ms. Schultz may require additional time to prepare and file an SOP.

20. Therefore, the ALJ will grant Complainant's Motion for Extension of Time to File SOPs. Both parties' SOPs will be due on or before the close of business on **October 4, 2024**.

21. With respect to Complainant's request for an extension of time to respond to Respondent's Motion for Attorney Fees and Costs, the ALJ will grant this request, too. The ALJ reiterates that because Complainant is currently unrepresented due to Mr. Bara's withdrawal, it may require additional time to prepare a response to the Motion for Attorney Fees. Complainant shall therefore have up to and including **October 9, 2024**, to respond to Respondent's Motion for Attorney Fees.

IV. WAIVER OF RESPONSE TIME

22. In light of the ALJ's rulings on the pending Motions for Extension of Time and Motion to Withdraw, response time to the motions discussed above will be waived.

V. ORDER

A. It Is Ordered That:

1. The Motion to Withdraw and Notice to Complainant and Waiver of Rule 1201(d) Time to Object filed by Complainant's counsel Richard Bara on September 30, 2024, is granted.

2. Complainant's Motion for Extension of Time to File Post Hearing Statement of Position, filed September 20, 2024, is granted. The parties' respective Statements of Position shall be due on or before the close of business on **October 4, 2024**.

3. Complainant's Motion for Extension of Time to File Response in Opposition to Motion for Attorney Fees and Costs, filed September 25, 2024, is granted. Complainant's response to Respondent's Motion for Attorney Fees and Costs shall be due on or before the close of business on **October 9, 2024**.

4. Response times to the Motions for Extension of Time and the Motion to Withdraw are waived.

5. This Decision is effective immediately.

(S E A L)



THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

ALENKA HAN

Administrative Law Judge

ATTEST: A TRUE COPY

Rebecca E. White,
Director