

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 19A-0452CP-EXTENSION

IN THE MATTER OF THE APPLICATION OF ASPIRE TOURS LLC FOR PERMANENT
AUTHORITY TO EXTEND OPERATIONS UNDER CERTIFICATE OF PUBLIC
CONVENIENCE AND NECESSITY NO. 55865.

**INTERIM DECISION OF
ADMINISTRATIVE LAW JUDGE
CONOR F. FARLEY
ACNOWLEDGING WITHDRAWAL OF INTERVENTION,
ADDRESSING REPRESENTATION, SCHEDULING
HEARING, AND SETTING PROCEDURAL SCHEDULE**

Mailed Date: October 7, 2019

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I. STATEMENT

A. Background

1. On August 16, 2019, Aspire Tours LLC (Aspire) filed the application described in the caption above (Application).

2. On August 19, 2019, the Commission issued a notice of the Application.
3. On September 17, 2019, Andres Michelich, doing business as Western Slope Rides (Western Slope Rides), filed an Intervention.
4. On September 18, 2019, Ckimy LLC, doing business as iLIMO (iLIMO), filed an Intervention.
5. On September 25, 2019, the Commission deemed the Application complete and referred it to an Administrative Law Judge (ALJ) for disposition. The proceeding was subsequently assigned to the undersigned ALJ.
6. On September 30, 2019, Western Slope Rides withdrew its intervention.

B. Representation of iLIMO

7. Intervenor iLIMO is a party to this adjudicatory proceeding. Yassine Chanane signed iLIMO's Intervention. Intervenor iLIMO's intervention does not state, however, that the signatory is an attorney currently in good standing before the Supreme Court of the State of Colorado.
8. Commission Rule 1201(a) of the Commission's Rules of Practice and Procedure, requires a party in a proceeding before the Commission to be represented by an attorney authorized to practice law in the State of Colorado.¹ An exception to this rule allows a non-attorney "Officer" to represent the interests of a closely-held entity in a proceeding in which no more than \$15,000 is in controversy.² A closely-held entity has no more than three owners.³

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

² § 13-1-127, C.R.S.

³ See Rule 1201(b)(II), 4 CCR 723-1. See also § 13-1-127(2.3(a)), C.R.S. (stating that "[a] person in whom management of a limited liability company is vested or reserved" "shall be presumed to have the authority to appear on behalf of the closely held entity upon providing evidence of the person's holding the specified office or status[.]").

Evidence must be provided that the officer has the authority to represent the interests of the closely held entity.⁴

9. Intervenor iLIMO must either obtain counsel or show cause why Rule 1201, 4 CCR 723-1 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 iLIMO to enter appearances in this matter or to show cause why Rule 1201, 4 CCR 723-1, does not require it to be represented by legal counsel in this matter is **November 1, 2019**. Intervenor iLIMO is advised that failure either to show cause or to have legal counsel file an entry of appearance on its behalf on or before **November 1, 2019** may result in dismissal of its intervention.

C. Hearing

10. The hearing in this matter shall be scheduled for **January 16, 2020**. If any party cannot attend the hearing on this date, the party with the scheduling conflict must confer with the opposing parties and file a motion to reschedule the hearing by **October 25, 2019**. The motion to reschedule shall identify the dates that all of the parties are available for a hearing between January 6, 2020 and January 15, 2020. The motion to reschedule must also identify the number of days that the parties anticipate the hearing will take.

⁴ Section 13-1-127(1)(i), C.R.S., defines “Officer” as “a person generally or specifically authorized by an entity to take any action contemplated by” § 13-1-127, C.R.S.

D. Procedural Schedule

11. 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.

12. On or before **November 1, 2019**, Aspire will be ordered to file and serve on iLIMO: (a) a list that identifies each witness Aspire 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 Aspire will present at the hearing.

13. On or before **November 29, 2019**, iLIMO will be ordered to file and serve on Aspire: (a) a list that identifies each witness iLIMO 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 iLIMO will present at the hearing.

14. 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.⁵ The Commission's Rules (including Rule 1205) are available on the Commission's website and in hard copy from the Commission.

⁵ 4 CCR 723-1.

15. 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).⁶

16. All exhibits shall be identified by sequential numbers (*e.g.*, Exhibit 1, Exhibit 2, and Exhibit 3). Each exhibit shall include the following information: exhibit number, proceeding number, name of the witness who will testify to the exhibit's foundation, and the date of the hearing. The parties shall work together to ensure that there are no overlaps in the numbering of the exhibits.

17. Each party shall bring to the hearing an original and three copies of each exhibit it intends to introduce at the hearing. The filing of an exhibit with the Commission does not, by itself, admit an exhibit into the evidentiary record of the hearing.

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

19. 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.

⁶ See Rule 1205(e), 4 CCR 723-1.

E. Additional Advisements

20. 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 (<http://www.dora.colorado.gov/puc>) and in hard copy from the Commission.

II. ORDER**A. It Is Ordered That:**

1. The withdrawal of the intervention Andres Michelich, doing business as Western Slope Rides, filed on September 30, 2019 is acknowledged.

2. Aspire Tours LLC (Aspire) and Ckimy LLC, doing business as iLIMO (iLIMO) are parties to this proceeding.

3. As described above, the deadline for counsel to enter an appearance in this matter on behalf of iLIMO or for iLIMO to show cause why Rule 1201, 4 CCR 723-1, does not require it to be represented by legal counsel in this matter is November 1, 2019.

4. An evidentiary hearing in this proceeding is scheduled as follows:

DATE: January 16, 2020
TIME: 9:00 a.m.
PLACE: Commission Hearing Room B
1560 Broadway, 2nd Floor
Denver, Colorado

5. On or before November 1, 2019, Aspire shall file and serve on iLIMO: (a) a list that identifies each witness Aspire 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 Aspire will present at the hearing.

6. On or before November 29, 2019, iLIMO shall file and serve on Aspire: (a) a list that identifies each witness iLIMO 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 iLIMO 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 "Doug Dean".

Doug Dean,
Director