

Decision No. R14-0950-I

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO**

PROCEEDING NO. 14A-0479CP

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IN THE MATTER OF THE APPLICATION OF STARRY NIGHTS LLC FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE AS A COMMON CARRIER BY MOTOR VEHICLE FOR HIRE.

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**INTERIM DECISION OF  
ADMINISTRATIVE LAW JUDGE  
MELODY MIRBABA  
SCHEDULING HEARING AND  
ESTABLISHING DEADLINES**

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Mailed Date: August 5, 2014

**I. STATEMENT, FINDINGS AND CONCLUSIONS**

1. On May 14, 2014, Starry Nights LLC (Applicant) filed an Application for a Certificate of Public Convenience and Necessity to Operate as a Common Carrier by Motor Vehicle for Hire (Application). Applicant amended its Application on May 22, 2014 (amended Application).

2. The Commission provided public notice of the amended Application on June 2, 2014. As originally noticed, the amended Application seeks, “authority to operate as a common carrier by motor vehicle for hire for the transportation of passengers in call-and demand shuttle service and call-and-demand sightseeing service between all points within a 1.5 mile radius of the intersection of West 1st Street and Main Street in Palisade, Colorado.”

3. GISDHO Shuttle, Inc., doing business as American Spirit Shuttle (American Spirit), and Tazco, Inc., doing business as Sunshine Tax (Sunshine) timely intervened of right objecting to the Application.

4. During the Commission's weekly meeting held July 9, 2014, the Commission deemed the Application complete and referred it to an administrative law judge (ALJ) for disposition.

5. On July 8, 2014, Applicant filed a second amendment to the Application. The second amendment seeks to remove the following language from the authority sought, "and call-and-demand sightseeing service." In other words, the amendment seeks to eliminate Applicant's original request for authority to operate in call-and-demand sightseeing service.

6. On July 9, 2014, American Spirit filed a "Motion for Acceptance of Amendment to Application and Withdrawal of Intervention" (Motion). The Motion seeks the Commission to accept the second amendment to the Application; if the Commission accepts that amendment, American Spirit withdraws its intervention and objection to the Application.

7. By Decision No. R14-0884-I issued July 24, 2014, the ALJ accepted the proposed restrictive amendment and dismissed American Spirit as a party to this proceeding.

8. On July 24, 2014, the ALJ contacted all parties informally to clear dates for an evidentiary hearing. The ALJ allowed the parties until August 4, 2014 to provide dates for a hearing. *See* Decision No. R14-0884-I. No party submitted proposed hearing dates.

9. The ALJ will establish procedural deadlines and hearing dates. The hearing will be held in Grand Junction, Colorado, as set forth below.

10. In anticipation of the hearing on the Application, the parties are ordered to file and serve disclosures of the witnesses and evidence they intend to present at the hearing in support of their position.

11. An exhibit is any document or other tangible item the party wishes the ALJ to consider in reaching a decision in this matter.

12. Witness lists shall include a description of the witnesses' testimony and the witnesses' last known address and telephone number. Witnesses are those persons who will testify under oath on behalf of a party.

13. Any party who intends to call only one of the following: its owner, operator, officer, member, partner, or manager, is not required to file a witness list.<sup>1</sup> However, any party wishing for any other person to testify on its behalf must file a complete witness list as required by this Decision.

14. Whether the parties are required to file a witness list as stated above *does not* impact the parties' responsibility to file and serve an exhibit list and exhibits.

15. 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 parties to the proceeding. Service may be accomplished by United States Mail, or through the Commission's E-filing system, if the party being served is registered with the E-filing system.

16. Filing a document means that the party must provide the document to the Commission and must include the proceeding number with that document.

17. All parties are advised that this proceeding is governed by the Rules of Practice and Procedure found at 4 *Code of Colorado Regulations* (CCR) 723-1, the Rules Regulating Transportation by Motor Vehicle found at 4 CCR 723-6, and applicable case law and statutory authority. The referenced Commission Rules are available on the Commission's website at [www.dora.colorado.gov/puc](http://www.dora.colorado.gov/puc), and in hard copy from the Commission. This proceeding is also governed by the Colorado Rules of

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<sup>1</sup> It is reasonable to presume that the parties will each call a single representative witness to testify regarding their position on the Application, *e.g.*, why the Application should or should not be granted.

Evidence, which can be found at the following link, under the “Colorado Court Rules” tab:  
<http://www.lexisnexis.com/hottopics/colorado/>.

18. Non-attorneys will be held to the same standards as attorneys.

19. All parties are advised that failure to make disclosures as required by this Decision may result in a decision dismissing the Application without prejudice, a decision preventing an intervener from participating in this proceeding, or a decision preventing the party who violates this Decision from presenting witnesses and evidence at the evidentiary hearing.

**II. ORDER**

**A. It Is Ordered That:**

1. A hearing on the merits of Starry Nights LLC’s (Applicant) Application for a Certificate of Public Convenience and Necessity to Operate as a Common Carrier by Motor Vehicle for Hire is scheduled as follows:

DATES: October 21, 22, and 23, 2014  
TIME: 9:30 a.m. each day  
PLACE: Colorado Department of Transportation  
222 South 6th Street, First floor, Room 101  
Grand Junction, Colorado

2. At the above date, time, and place you will be given the opportunity to be heard if you so desire.

3. The disclosure timeframes required by Rules 1405(k)(I) and (II), 4 *Code of Colorado Regulations* 723-1 are waived. A new disclosure schedule is set forth below.

4. Applicant shall file and serve exhibit and witness lists and exhibits on or by 5:00 p.m. MST on September 16, 2014.

5. Tazco, Inc., doing business as Sunshine Taxi shall file and serve exhibit and witness lists and exhibits on or by 5:00 p.m. MST on September 30, 2014.

6. Witness lists shall include a description of the witnesses' anticipated testimony, the witnesses' name and job title (if any), and the witnesses' last known address and telephone number.

7. Any party who intends to call only one of the following: its owner, operator, officer, member, partner, or manager, is not required to file a witness list. However, any party wishing for any additional person to testify on its behalf must file a complete witness list as required by this Decision.

8. All exhibits shall be identified by sequential numbers (*e.g.*, Exhibit 1, Exhibit 2, Exhibit 3). The parties shall work together to coordinate sequential numbering of exhibits.

9. Exhibits 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 must have all their exhibits stamped and properly identified prior to the time the hearing is scheduled to begin.

10. At the hearing, the parties shall bring an original and two copies of each pre-marked exhibit they intend to introduce, along with a completed exhibit list in the format set forth in Appendix A to this Decision.

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

12. Except as stated above, failure to file and serve witness lists as required by this Decision, except witnesses called in rebuttal, may result in a decision prohibiting any undisclosed witnesses from testifying.

13. Failure to file and serve exhibits as required by this Decision, except exhibits for rebuttal or impeachment, may result in a decision rejecting the admission of undisclosed exhibits.

14. This Decision is effective immediately.

(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 'Doug Dean'.

Doug Dean,  
Director