

Decision No. R23-0140

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 22A-0473CP

IN THE MATTER OF THE APPLICATION OF AL RAZAQ IMPORT & EXPORT LLC FOR A
CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE AS A
COMMON CARRIER BY MOTOR VEHICLE FOR HIRE.

**RECOMMENDED DECISION OF
ADMINISTRATIVE LAW JUDGE
MELODY MIRBABA
GRANTING PERMANENT AUTHORITY
SUBJECT TO CONDITIONS**

Mailed Date: February 24, 2023

I. STATEMENT, SUMMARY, AND BACKGROUND

A. Statement and Summary

1. This Decision acknowledges that Mountain Star Transportation LLC doing business as Explorer Tours (Mountain Star) has withdrawn its Intervention and objection to the Application, as amended by Decision No. R23-0103-I (Amended Application). With Mountain Star's Intervention and objection withdrawn, the Amended Application is not contested; as such, this Decision grants the Amended Application based on the record, subject to conditions outlined in the ordering paragraphs below.

B. Procedural History¹

2. On October 31, 2022, Al Razaq Import & Export LLC (Al Razaq) initiated this matter by filing the above-captioned Application for Permanent Authority to Operate as a Common Carrier by Motor Vehicle for Hire (Application).

3. The Commission referred the matter to an Administrative Law Judge (ALJ) for disposition on December 14, 2022.

4. Mountain Star timely intervened of right.² In its Petition for Intervention and Entry of Appearance (Intervention), Mountain Star opposed the Application and requested a hearing on the same.³ Mountain Star is the only other party to this Proceeding.⁴

5. After holding a prehearing conference on January 24, 2023, with the parties' input, the ALJ scheduled this matter for an evidentiary hearing for April 10, 2023, on whether to grant the Application and established procedural deadlines to accommodate that hearing date.⁵

6. On January 30, 2023, Al Razaq made a filing seeking to restrictively amend the authority sought by the Application (Motion to Amend).

7. On February 15, 2023, the ALJ granted the Motion to Amend, and amended the Application as requested (Amended Application).⁶ At the same time, the ALJ required that Mountain Star or Al Razaq (with Mountain Star's consent), make a filing on or by

¹ Only the procedural history necessary to understand this Decision is included.

² Decision No. R22-0822-I at 8 (mailed December 20, 2022); Petition for Intervention and Entry of Appearance filed November 28, 2022 (Intervention).

³ Intervention at 1-2.

⁴ Flatirons Transportation LLC doing business as Green Ride Charter Service and Green Ride Boulder (Green Ride) was a party to this Proceeding but was dismissed as a party for the reasons described in Decision No. R23-0027-I. Decision No. R23-0027-I at 7 (mailed January 10, 2023).

⁵ Decision No. R23-0060-I at 5-8 (mailed January 26, 2023).

⁶ Decision No. R23-0103-I at 5 (mailed February 15, 2023).

February 22, 2023 indicating whether the approved amendment resolves Mountain Star's Intervention and objection to authority sought in this Proceeding and whether Mountain Star objects to the Amended Application.⁷

8. Also on February 15, 2023, after the Decision granting the Motion To Amend was issued, Mountain Star filed two identical Notices of Withdrawal. Given they are identical, the ALJ refers to them as a single Notice of Withdrawal (Notice).

II. FINDINGS AND CONCLUSIONS

9. The Notice states that Mountain Star and Al Razaq discussed settling their dispute in this Proceeding, and that as a result, Al Razaq submitted the proposed restrictive amendment to the Application filed on January 30, 2023.⁸ The Notice also states that the Commission approved the proposed amendment, and that Mountain Star requests that the Commission withdraw its Intervention⁹

10. The ALJ acknowledges and accepts Mountain Star's withdrawal of its Intervention. Mountain Star's Intervention is deemed withdrawn, and it is no longer a party to this Proceeding.¹⁰

11. Since Mountain Star has withdrawn its Intervention, the Amended Application is unopposed. Because the Amended Application is uncontested, is verified, includes sufficient facts to make a determination on the relief sought, is supported by the required documents and

⁷ *Id.* at 5-6.

⁸ Notice at 1.

⁹ *Id.*

¹⁰ The ALJ notes that the Notice's description of the approved amendment is not entirely accurate. Specifically, the Amended Application restricts the requested authority *to* providing transportation that originates or terminates at the listed location and *does not* restrict Applicant *from* providing transportation to and from the locations (as Mountain Star asserts). Decision No. R23-0103-I at 4-5; Notice at 1.

information, and a hearing is not required or requested, the ALJ will consider the Amended Application based on the record without a formal hearing.¹¹

12. The record shows that Al Razaq is a Colorado limited liability corporation organized in Colorado and in good standing.¹² The verified Application establishes that Al Razaq is familiar with the Rules Regulating Transportation by Motor Vehicle, 4 *Code of Colorado Regulations* 723-6, and agrees to be bound by, and to comply with, those Rules.¹³ The Application establishes that Al Razaq has sufficient equipment with which to render the proposed service and is financially fit to conduct operations under the authority requested.¹⁴ The Application establishes that Al Razaq's owner has experience in the transportation industry, which establishes that Al Razaq is managerially fit to operate the requested authority.¹⁵ Finally, a review of the verified Application indicates a need for the proposed service.¹⁶

13. Based on the foregoing and the record, the ALJ concludes that because Al Razaq is fit, financially and otherwise, to perform the proposed service and because the other prerequisites have been met, the requested authority should be granted, subject to the below conditions.

14. In accordance with § 40-6-109, C.R.S., the ALJ now transmits to the Commission the record in this proceeding and recommends that the Commission enter the following order.

¹¹ § 40-6-109(5), C.R.S., and Rule 1403, of the Commission's Rules of Practice and Procedure, 4 *Code of Colorado Regulations* (CCR) 723-1.

¹² Application at 8-9.

¹³ *Id.* at 7.

¹⁴ *Id.* at 4-5.

¹⁵ *Id.* at 5.

¹⁶ *Id.* at 4.

III. ORDER

A. The Commission Orders That:

1. Consistent with the above discussion and the Notice of Withdrawal filed on February 15, 2023, the Petition for Intervention and Entry of Appearance filed by Mountain Star Transportation LLC, doing business as Explorer Tours (Mountain Star) is deemed withdrawn. Mountain Star is no longer a party to this Proceeding.

2. Al Razaq Import & Export LLC's (Al Razaq) Application, as amended by Decision No. R23-0103-I is granted subject to the conditions identified below. Al Razaq is granted a Certificate of Public Convenience and Necessity to Operate as a Common Carrier of Passengers by Motor Vehicle as follows:

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, Boulder,
Broomfield, Denver, Douglas, El Paso, and Jefferson, State of Colorado.

RESTRICTIONS:

This authority is restricted to transportation that originates or terminates at any of the following locations: Red Rocks Park and Amphitheater, Rocky Mountain National Park, Pikes Peak, Garden of the Gods, Mount Evans, and Lookout Mountain.

3. Al Razaq must operate in accordance with all applicable Colorado laws and Commission rules.

4. Al Razaq may not commence operation under the authority granted until it has complied with the requirements of Colorado law and Commission rules, including without limitation:

- (a) causing proof of insurance (Form E or self-insurance) or surety bond (Form G) coverage to be filed with the Commission;
- (b) paying to the Commission, the motor vehicle fee for each vehicle to be operated under authority granted by the Commission, or in lieu thereof, paid the fee for such vehicle(s) pursuant to the Unified Carrier Registration Agreement;
- (c) having an effective tariff on file with the Commission. To this end, Al Razaq must file an advice letter and tariff on not less than ten days' notice. The advice letter and tariff must be filed as a new Advice Letter proceeding and must comply with all applicable rules. In calculating the proposed effective date, the date received at the Commission is not included in the notice period and the entire notice period must expire prior to the effective date. (Additional tariff information can be found on the Commission's website at www.colorado.gov/pacific/dora/common-carriers); and
- (d) paying the applicable issuance fee.

5. If Al Razaq does not cause proof of insurance or surety bond to be filed, pay the appropriate motor vehicle fees, file an advice letter and proposed tariff, and pay the issuance fee ***within 60 days*** of the effective date of this Decision, then the grant of the Permit will be void. For good cause shown, the Commission may grant additional time for compliance if the request for additional time is filed within 60 days of the effective date of this Decision.

6. The Commission will notify Al Razaq in writing when the Commission's records demonstrate compliance with ordering paragraph 4.

7. The hearing scheduled for April 10, 2023, and all related procedural deadlines are vacated.

8. Proceeding No. 22A-0473CP is closed.

9. This Recommended Decision shall be effective on the day it becomes the Decision of the Commission, if that is the case, and is entered as of the date above.

10. As provided by § 40-6-106, C.R.S., copies of this Recommended Decision shall be served upon the parties, who may file exceptions to it.

11. If no exceptions are filed within 20 days after service or within any extended period of time authorized, or unless the recommended decision is stayed by the Commission upon its own motion, the recommended decision shall become the decision of the Commission and subject to the provisions of § 40-6-114, C.R.S.

12. If a party seeks to amend, modify, annul, or reverse a basic finding of fact in its exceptions, that party must request and pay for a transcript to be filed, or the parties may stipulate to portions of the transcript according to the procedure stated in § 40-6-113, C.R.S. If no transcript or stipulation is filed, the Commission is bound by the facts set out by the administrative law judge; and the parties cannot challenge these facts. This will limit what the Commission can review if exceptions are filed.

13. If exceptions to this Recommended Decision are filed, they shall not exceed 30 pages in length, unless the Commission for good cause shown permits this limit to be exceeded.

(S E A L)



THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

MELODY MIRBABA

Administrative Law Judge

ATTEST: A TRUE COPY

G. Harris Adams,
Interim Director