

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 22A-0335CP

IN THE MATTER OF THE APPLICATION OF TIPSY VELO LLC, DOING BUSINESS AS TIPSY VOYAGE, 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
AVIV SEGEV
GRANTING, IN PART, MOTION TO VACATE
EVIDENTIARY HEARING AND VACATING
EVIDENTIARY HEARING**

Mailed Date: November 27, 2023

I. STATEMENT

A. Procedural Background

1. On July 21, 2022, Topsy Velo, LLC, d/b/a Topsy Voyage (Applicant or Topsy Voyage) filed with the Commission its Permanent Authority Application (Application), through which Applicant seeks a Certificate of Public Convenience and Necessity (CPCN) to operate as a common carrier by motor vehicle for hire. This filing commenced Proceeding No. 22A-0335CP.

2. On July 25, 2022, the Commission issued a Notice of Applications and Petitions Filed (Notice). The Notice gave notice of the Application, set procedural deadlines, and established a 30-day intervention period.

3. On August 22, 2022, Absolute Prestige Limousine II, LLC (Intervenor or Absolute Prestige) timely noticed its intervention of right by filing its Entry of Appearance, Intervention, Letter of Authority, and Legal Representation for Absolute Prestige Limousine II, LLC.

4. On August 31, 2022, the Commission, via minute entry, deemed the Application complete and referred Proceeding No. 22A-0335CP to an Administrative Law Judge (ALJ) for disposition.

5. By Decision No. R23-0528-I, filed August 8, 2023, the ALJ, among other things, scheduled a hearing in this matter for October 5, 2023.

6. By Decision No. R23-0671-I, issued October 5, 2023, the ALJ, among other things, rescheduled the evidentiary hearing in this matter for November 28, 2023.

7. On November 22, 2023, Applicant's Motion to Restrictively Amend Application and for Other Relief Including the Vacating of Hearing on November 28, 2023 (Motion to Vacate) was filed by Topsy Voyage.

8. On November 24, 2023, Intervenor Absolute Prestige Limousine II, LLC's Response to Applicant's Motion to Restrictively [sic] Amend Application and for Other Relief Including the Vacating of Hearing on November 28, 2023 (Response to Motion to Vacate) was filed by Intervenor.

a. Applicant's Requests to Waive Response Time to the Motion to Vacate and Vacate the Hearing on November 28, 2023

9. In the Motion to Vacate, Applicant: requests to restrictively amend the Application,¹ states that the requested restriction eliminate any overlap between Intervenor's CPCN PUC No. 55925 and Applicant's requested restricted authority,² requests that the evidentiary hearing scheduled for November 28, 2023 be vacated so that Applicant can postpone the expense of preparations for an evidentiary hearing "unless and until the restrictive amendment is rejected,"³

¹ Motion to Vacate at 2-3.

² Motion to Vacate at 3

³ *Id.* at 3.

and requests that response time to the Motion to Vacate be waived given that the hearing herein is scheduled to take place before response time to the Motion to Vacate will have run.⁴

10. In the Response to Motion to Vacate, Intervenor states that it was ready to proceed with a hearing on November 28, 2023,⁵ and that Applicant's counsel "continues to extend the time for a hearing to proceed and at the same time asks for the Commission to rule in its favor for attorney's fees to be paid by Intervenor, when, in fact, it is not Intervenor who has continuously requested for the hearing date to be continued."⁶

11. Because Intervenor timely responded to the Motion to Vacate, Applicant's request to waive response time is moot. Therefore, Topsy Voyage's request to waive response time will be denied, as ordered below.

12. It is found and concluded that Applicant stated good cause for vacating the hearing scheduled for November 28, 2023. Therefore, the hearing scheduled for November 28, 2023, will be vacated, as ordered below.

b. The Remaining Requested Relief in the Motion to Vacate

13. In the Motion to Vacate, in addition to Applicant's request to vacate the hearing scheduled for November 28, 2023, Applicant requests: to amend the Application,⁷ strike Absolute Prestige's intervention,⁸ waive response time to the Motion to Vacate,⁹ and Attorney's fees and costs from Intervenor for Intervenor's violations of Colo. R. Civ. Pro. 11, Rule 1202(e) of the Rules

⁴ *Id.* at 4.

⁵ Response to Motion to Vacate at 1.

⁶ *Id.* at 1-2.

⁷ Motion to Vacate at 2.

⁸ *Id.* at 3.

⁹ *Id.* at 4.

of Practice and Procedure, 4 *Code of Colorado Regulations* 723-1, and § 13-17-102, C.R.S.¹⁰ Applicant's requests for relief that were not specifically resolved herein¹¹ will be addressed by a separate decision.

II. ORDER

B. It Is Ordered That:

1. Applicant's Motion to Restrictively Amend Application and for Other Relief Including the Vacating of Hearing on November 28, 2023 (Motion to Vacate), filed by Topsy Velo, LLC, d/b/a Topsy Voyage (Topsy Voyage) on November 22, 2023, is granted, only as to Applicant's request to vacate the hearing scheduled for November 28, 2023.

2. Topsy Voyage's request to waive response time to the Motion to Vacate is denied as moot.

3. The evidentiary hearing scheduled for November 28, 2023, is vacated.

¹⁰ *Id.*

¹¹ *I.e.*, the relief sought by Applicant in the Motion to Vacate, other than Applicant's request to waive response time to the Motion to Vacate and Applicant's request to vacate the evidentiary hearing on November 28, 2023.

4. This Decision shall be effective immediately.

(S E A L)



THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

AVIV SEGEV

Administrative Law Judge

ATTEST: A TRUE COPY

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

Rebecca E. White,
Director