

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 23A-0499CP

IN THE MATTER OF THE APPLICATION OF HER RIDE LLC 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
ESTABLISHING PROCEDURAL
SCHEDULE AND SETTING HEARING**

Mailed Date: December 7, 2023

I. STATEMENT

1. On October 6, 2023, Her Ride LLC (Applicant or Her Ride) filed its Application for New Permanent Authority to Operate as a Common Carrier of Passengers by Motor Vehicle for Hire (Application).

2. On October 9, 2023, Her Ride submitted an amendment to the Application, amending the type of the requested authority Her Ride seeks in the Application.

3. On October 16, 2023, the Commission gave notice of the application (Notice). As noticed, the 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 between all points in El Paso County, State of Colorado.¹

¹ Notice at 2.

4. On November 8, 2023, Pikes Peak Cab LLC, doing business as Pikes Peak Transport (Pikes Peak), timely intervened of right.²

5. On November 21, 2023, Her Ride filed a response to the Intervention (Response).

6. During the Commission's Weekly Meeting held November 22, 2023, the Commission deemed the Application complete and referred the proceeding to an Administrative Law Judge (ALJ) for resolution by minute entry.

A. Intervention and Response

7. In the Intervention, Pikes Peak state that the authority sought in the Application and the authority granted to Pike's Peak in Certificate of Public (CPCN) No. 55884 overlap.³ The Intervention does not specifically state that was filed as a matter of right. The Response does not contest the appropriateness of Pikes Peak's intervention in this Proceeding, or otherwise seeks relief beyond the relief sought in the Application, as amended.⁴ The Intervention is construed to have been filed as a matter of right pursuant to Rule 1401, 4 CCR, 723-1, and the same is acknowledged by the undesignated ALJ.

B. Hybrid Evidentiary Hearing

8. A hybrid hearing is one in which at least one party chooses to appear in person, while others choose to appear remotely. A webcast of proceedings will be available to the public through the Commission's website.

² The Intervention does not specifically state that was made as a matter of right. However, as further discussed below, the Intervention is construed to have been filed as a matter of right pursuant to Rule 1401(a), 4 *Code of Colorado Regulations* (CCR), 723-1.

³ Intervention at 1.

⁴ Rather, the Response raises a series of factual allegations to be more appropriately explored in an evidentiary hearing.

9. The evidentiary hearing scheduled below will be held as a hybrid hearing. This Decision, Attachment A, and Attachment B provide important information and instructions to facilitate holding the remote hearing, which all parties must follow.

10. The procedures developed for the hybrid evidentiary hearing are intended to replicate, as practicable, evidence presentation as it occurs when parties and witnesses are present in the hearing room. For example, participating by videoconference allows parties and witnesses to view exhibits on the videoconference screen while the exhibits are being offered into evidence and witnesses testify about them.

11. The hybrid evidentiary hearing will be conducted via videoconference using the Zoom platform. Attachment A to this Decision provides information about the Zoom platform and how to use Zoom to participate in the remote hearing. To minimize the potential that the remote hearing may be disrupted by non-participants, the link and meeting ID, or access code to attend the hearing will be provided to the parties by email approximately one week before the hearing, and the parties and witnesses will be prohibited from distributing that information to anyone not participating in the hearing.

12. At the hearing, the parties may call witnesses, present evidence, and make arguments in support of their position. Evidence includes documentary exhibits, testimony, and other tangible items that a party wishes the ALJ to consider in reaching a decision as to the allegations in this proceeding. Given that the hearing will accommodate remote participation by video conference, exhibits must be presented electronically.

C. Procedural Schedule

13. 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 is made aware,

prior to the hearing, of the anticipated testimony of each witness the other party intends to call at the hearing, and able to review copies of the exhibits the other party will present at the hearing. Therefore, each party will be required to file (or supplement), and to serve on each other, a list of witnesses the party intends to call, a summary of the testimony of each witness, and copies of the exhibits the filing party intends to present at the hearing, as ordered below.

14. On or before December 28, 2023, Her Ride will be required to file and serve on the Intervenor: (a) a list that identifies the witnesses Tour Estes Park 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 Tour Estes Park will present at the hearing, as ordered below.

15. On or before January 18, 2024, Pike Peak will be required to file and serve on the Intervenor: (a) a list that identifies the witnesses Tour Estes Park 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 Tour Estes Park will present at the hearing, as ordered below.

16. 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.

D. Hearing Exhibits

17. The Public Utilities Commission Administrative Hearings Section uses box.com to receive and manage exhibits that are first presented in this type of remote evidentiary hearing. As such, it is essential that the parties ensure they are able to access and use box.com prior to the evidentiary hearing. To this end, the parties will be provided box.com links and instructions to: (a) upload exhibits for use during the hearing; and (b) download exhibits once they are presented during the hearing.

18. Each party must (a) pre-mark all hearing exhibits with a hearing exhibit number within their assigned number block before uploading the exhibits to the party's designated box.com folder; (b) sequentially page-number each page of exhibits longer than two pages, with the first page number as page 1, regardless of content before uploading the exhibits to the party's designated box.com folder; and (c) upload all pre-marked exhibits into each party's respective designated box.com folder prior to presenting them during the hearing.

19. Attachment B outlines procedures and requirements for marking and formatting exhibits aimed at facilitating efficient and smooth electronic evidence presentations at the remote hearing. It is very important that the parties carefully review and follow all requirements in this Decision and Attachments A and B.

20. In order to efficiently organize the numbering and preparation of exhibits for the hearing, the parties shall use a unified numbering system for all hearing exhibits. Blocks of hearing exhibit numbers are assigned as follows:

- Her Ride is assigned hearing exhibit numbers 100 to 199; and
- Pikes Peak is assigned hearing exhibit numbers 200 to 299.

E. Additional Procedural Notices and Advisements

21. The parties are on notice that the ALJ will retain the discretion to change the method by which the hearing will be conducted.

22. Additional procedural requirements may be addressed in future Interim Decisions.

23. 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.

24. Each party is specifically advised that all filings with the Commission must also be served upon all other parties in accordance with Rule 1205 of the Rules of Practice and Procedure, 4 CCR 723-1.

25. The Parties are also on notice that failure to appear at the scheduled evidentiary hearing may result in decisions adverse to their interests.

F. Informational Video Conference Practice Session

26. The ALJ will hold an informal practice videoconference session if requested by any Party to give the Parties an additional opportunity to practice using Zoom and box.com before the hearing.

27. The Parties may contact the Commission Legal Assistants by email at casey.federico@state.co.us or stephanie.kunkel@state.co.us to schedule an informal video conference session.

28. If applicable, the parties will receive information and about, a link to participate in, the informal practice session by email.

II. ORDER

A. It Is Ordered That:

1. A hearing in this matter shall be conducted at the following dates, time, and place:

DATE: February 8, 2024

TIME: 9:00 a.m.

PLACE: In-person: Commission Hearing Room, 1560 Broadway, Suite 250, Denver, Colorado 80202

By videoconference, using the Zoom web conferencing platform at a link to be provided by participants via email.⁵

2. No later than December 28, 2023, Her Ride LLC shall file (or supplement) and serve: (a) a list that identifies the witnesses Her Ride intends to call at the hearing, including a summary of the anticipated testimony of each witness; and (b) copies of the exhibits Her Ride will present at the hearing.

3. No later than January 18, 2024, Pikes Peak Cab LLC, doing business as Pikes Peak Transport, shall file (or supplement) and serve: (a) a list that identifies the witnesses Pikes Peak intends to call at the hearing, including a summary of the anticipated testimony of each witness; and (b) copies of the exhibits Pikes Peak will present at the hearing.

⁵ Additional information about the Zoom platform and how to use the platform are available at: <https://zoom.us/>. All participants are strongly encouraged to participate in a test meeting prior to the scheduled hearing. See <https://zoom.us/test>.

4. This Decision shall be effective immediately.

(S E A L)



ATTEST: A TRUE COPY

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

AVIV SEGEV

Administrative Law Judge

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

Rebecca E. White,
Director