

Decision No. R04-1215-I

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 04A-410BP

IN THE MATTER OF THE APPLICATION OF BLUE PEAKS DEVELOPMENTAL SERVICES, INC., FOR AUTHORITY TO OPERATE AS A CONTRACT CARRIER BY MOTOR VEHICLE FOR HIRE.

**INTERIM ORDER OF
ADMINISTRATIVE LAW JUDGE
MANA L. JENNINGS-FADER
GRANTING MOTION,
VACATING HEARING, AND
WAIVING RESPONSE TIME**

Mailed Date: October 15, 2004

I. STATEMENT

1. On August 5, 2004, Blue Peaks Developmental Services, Inc. (Blue Peaks), filed a Verified Application to Operate as a Contract Carrier by Motor Vehicle for Hire (Application). The Application commenced this docket.

2. The Commission gave public notice of the Application. *See* Notice of Applications Filed dated August 9, 2004 (Notice) at 4.

3. On September 8, 2004, Golden West Commuter, LLC (Golden West), filed a Petition for Leave to Intervene (Petition) and Intervention. Golden West is the only entity seeking permissive intervention. If the Petition is granted, Golden West opposes the Application. On September 21, 2004, Blue Peaks filed a letter in which it opposes the Petition.

4. There is no intervenor of right in this proceeding. If the Petition is denied, the Application will be unopposed.

5. On September 15, 2004, the Commission issued its Order Setting Hearing and Notice of Hearing. The Order established a hearing date of October 21, 2004.

6. On September 22, 2004, Golden West filed its Witness List, Exhibits, and Notice in Compliance with the Commission's Pre-filing Rules.

7. On October 1, 2004, Blue Peaks filed its List of Witnesses and Exhibits.

8. On October 14, 2004, Golden West filed a Motion to Dismiss, Motion to Postpone Hearing Pending Ruling on Motion to Dismiss, and Motion to Waive Response Time on Motion to Postpone Hearing. Response to the Motion to Dismiss is due on or before October 28, 2004.

9. This Order addresses only the Motion to Postpone Hearing Pending Ruling on Motion to Dismiss (Motion to Postpone) and the Motion to Waive Response Time on Motion to Postpone Hearing (Motion to Waive).

10. The Motion to Postpone states good cause. If the Motion to Dismiss is granted, there will be no need for a hearing in this matter. In addition, as noted above, the Petition is pending. If the Petition is denied, the Application will be unopposed, and there will be no need for a hearing in this matter. Further, response to the Motion to Dismiss is due on or before October 28, 2004, which is after the now-scheduled hearing date. Moreover, because the Motion to Dismiss raises complex legal issues and Blue Peaks is not represented by counsel, the Administrative Law Judge (ALJ) finds that shortening the time for Blue Peaks to respond would not be fair to Blue Peaks because shortening the response time would leave insufficient time for Blue Peaks to research and to respond adequately to the issues presented. Finally, in the ALJ's judgment, no party will be prejudiced if the Motion to Postpone is granted. For these reasons, the ALJ will grant the Motion to Postpone. The hearing scheduled for October 21, 2004, will be vacated and, if a hearing is necessary, it will be rescheduled by future Order.

11. Turning to the Motion to Waive, that Motion states good cause. The hearing in this matter is scheduled for October 21, 2004. It is necessary to decide the Motion to Postpone before the hearing date. Given the circumstances and procedural posture of this proceeding (discussed above), no party will be prejudiced if the Motion to Waive is granted. The Motion to Waive will be granted, and the response time to the Motion to Postpone will be waived.

II. ORDER

A. It Is Ordered That:

1. The Motion to Postpone Hearing Pending Ruling on Motion to Dismiss is granted.
2. The hearing scheduled in this matter for October 21, 2004, is vacated.
3. The Motion for Waiver of Response Time on Motion to Postpone Hearing is granted.
4. Response time to the Motion to Postpone Hearing Pending Ruling on Motion to Dismiss is waived.
5. This Order is effective immediately.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Administrative Law Judge