

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

PROCEEDING NO. 08A-407CP

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IN THE MATTER OF THE APPLICATION OF MILE HIGH CAB, INC., FOR A  
CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE  
AS A COMMON CARRIER BY MOTOR VEHICLE FOR HIRE.

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**RECOMMENDED DECISION OF  
HEARING COMMISSIONER  
JAMES K. TARPEY  
DENYING MOTIONS TO REOPEN  
THE RECORD AND GRANTING,  
IN PART, APPLICATION FOR A  
CERTIFICATE OF PUBLIC  
CONVENIENCE AND NECESSITY**

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Mailed Date: December 10, 2013

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**I. STATEMENT****A. Procedural Background**

1. This proceeding commenced on September 11, 2008, when Mile High Cab, Inc. (Mile High), filed an application for a certificate of public convenience and necessity to operate as a taxicab carrier. That application, as amended, sought the following service territory: between all points in the Counties of Adams, Arapahoe, Denver, Douglas, and Jefferson, State of Colorado, and between said points, on the one hand, and all points in the State of Colorado, on the other hand.<sup>1</sup>

2. The Commission assigned this proceeding to Administrative Law Judge (ALJ) Paul C. Gomez. Several incumbent taxicab carriers intervened, including MKBS, LLC, doing business as Metro Taxi and/or Taxis Fiesta and/or South Suburban Taxi (Metro Taxi) and Colorado Cab Company, LLC (Colorado Cab). The ALJ held an evidentiary hearing from August 24, 2009, to September 14, 2009.

3. The ALJ issued Decision No. R10-0745 on July 20, 2010, denying Mile High's application.<sup>2</sup> The ALJ applied § 40-10-105(2)(b)(II), C.R.S. (2008) (also known as House Bill 08-1227), the then-applicable standard for certification to operate a taxicab service within and between Adams, Arapahoe, Denver, Douglas, and Jefferson Counties. The ALJ also applied the standard under House Bill 08-1227 to Mile High's application for service from these five counties to other counties governed by House Bill 08-1227, such as Boulder, Broomfield, and El Paso. The ALJ ruled that House Bill 08-1227 did not apply to the remaining authority sought by Mile High (authority to operate from the five metropolitan counties to all other points in the

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<sup>1</sup> By Decision No. R09-0046-I, mailed January 16, 2009, the Administrative Law Judge (ALJ) granted the restrictive amendments to the original application.

<sup>2</sup> The Hearing Commissioner incorporates by reference the statement of procedural history found in ¶¶ 1-36 of Decision No. R10-0745.

State of Colorado) and therefore applied the standards of traditional regulated competition or regulated monopoly, depending upon the population of the county.<sup>3</sup>

4. For the aspects of Mile High's application governed by House Bill 08-1227, the ALJ found Mile High proved that it is operationally and financially fit to operate a taxicab service, which shifted the burden to the intervenors to demonstrate both that the public convenience and necessity does not require granting the application and that the issuance of the certificate would be detrimental to the public interest. The ALJ ruled that the intervenors satisfied their burden of proof and thus the certificate to serve in the five Denver metropolitan area counties was denied. Mile High's application to serve from the five-county area to all points in Colorado, which are governed by the doctrines of traditional regulated competition and regulated monopoly, also was denied. The Commission ultimately affirmed Decision No. R10-0745 by Decision No. C10-1354, issued December 20, 2010.

5. Mile High sought judicial review from the District Court of the City and County of Denver in Case No. 2011 CV 1840 limited to the Commission's denial of its application to serve within the five-county metropolitan area and from those counties to others governed by the standard in House Bill 08-1227. On September 12, 2011, the District Court affirmed the Commission's decisions and upheld the denial of Mile High's application.

6. Mile High then appealed to the Colorado Supreme Court arguing that the Commission had not applied the correct burden of proof to the elements that must be demonstrated by the parties opposing certification. On April 22, 2013, the Supreme Court issued

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<sup>3</sup> Decision No. R10-0745, mailed July 20, 2010, at ¶ 14.

its opinion reversing the District Court. *Mile High Cabs, Inc. v. Pub. Utils. Comm'n*, 302 P.3d 241 (Colo. 2013). The Court ruled as follows:

The legislative allocation of the burden of proof in section 40-10-105(2)(b)(II), therefore, prescribes that once an applicant has shown it to be more probable than not that it is operationally and financially fit to provide the service, that applicant is entitled to a Certificate of Public Convenience and Necessity unless those opposing issuance demonstrate that it is nevertheless more probable than not that the public convenience and necessity do not require granting the application and that it is more probable than not that doing so will actually be detrimental to the public interest.

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Because the record does not clearly contain the finding statutorily required for a denial of Mile High's application by the Public Utilities Commission — that the parties opposing the application proved by a preponderance of the evidence that the public convenience and necessity did not require granting the application and that the issuance of a certificate would actually be detrimental to the public interest — the judgment of the district court is reversed, and the case is remanded with directions to return the matter to the Public Utilities Commission for further action consistent with this opinion.

*Id.*, at 246, 248.

7. On May 15, 2013, the District Court remanded this matter to the Commission.
8. Following the remand, the Commission reopened this proceeding to take further action directed by the Colorado Supreme Court. The Commission referred this matter to Hearing Commissioner James K. Tarpey to conduct further proceedings and to issue a recommended decision. Decision No. C13-0766-I, mailed June 21, 2013.
9. The Hearing Commissioner established the scope of proceedings on remand by Decision No. R13-1288-I, mailed October 11, 2013. The Hearing Commissioner found that the remand proceedings should be limited to the existing record on the issues of public convenience and necessity and public interest, as of the close of the evidentiary hearings held in 2009. He explained that the issues to be determined on remand are whether, based on the existing record,

the parties opposing the application have demonstrated it is more probable than not that public convenience and necessity does not require granting the application and it is more probable than not that doing so would actually be detrimental to the public interest. *Id.*, ¶ 6. The Hearing Commissioner also found that additional pleadings or argument were not necessary. *Id.*

10. On October 9, 2013, Colorado Cab and Metro Taxi filed motions requesting that the Commission reopen the evidentiary record to allow the introduction of new evidence regarding Mile High's operational and financial fitness. In their motions, Colorado Cab and Metro Taxi cited § 40-6-112(1), C.R.S., which authorizes the Commission to rescind, alter, or amend any decision. Colorado Cab and Metro Taxi allege that another action pending in state district court<sup>4</sup> involving Mile High, its board, and principals raises issues of Mile High's operational and financial fitness to operate a taxicab service. Mile High responded in opposition to these motions on October 24, 2013.<sup>5</sup> The Commission referred the motions to the Hearing Commissioner by minute entry.

### **B. Scope of Proceedings**

11. The Hearing Commissioner affirms, for reasons stated in Decision No. R13-1288-I, that the scope of the proceedings on remand shall be limited to the existing evidentiary record on the issues of public convenience and necessity and public interest. The Hearing Commissioner finds the motions to reopen do not establish good cause to consider altering or amending the prior decision finding that Mile High is operationally and financially fit. These motions do not explain how the civil action involving Mile High's principals demonstrates a lack of operational and financial fitness of Mile High as a whole. The findings and conclusions

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<sup>4</sup> Denver District Court Case No. 12 CV 6730, consolidated with Case No. 13 CV 30782.

<sup>5</sup> The Hearing Commissioner notes this response was untimely. However, no party filed a motion to strike. Thus, he will consider the response in reaching a decision on the merits.

in Decision No. R10-0745 pertaining to fitness were based on more than the qualifications of the Mile High principals who are parties to the district court case.<sup>6</sup> The Hearing Commissioner agrees with Mile High that resolving disputes among the principals within the legal system does not indicate a lack of fitness.

12. In sum, the Hearing Commissioner declines to utilize his discretion to reopen the record under § 40-6-112(1), C.R.S. There has been no showing of extraordinary circumstances to justify proceedings to reevaluate Mile High's operational and financial fitness, especially because the prior decision on the issues of Mile High's operational and financial fitness has been made in a fully litigated proceeding.<sup>7</sup> Even if the original principals no longer manage Mile High, the Commission ordinarily does not reexamine its decisions regarding fitness of regulated entities when management changes. Judicial review and the pending remand proceedings before the Commission do not provide an additional procedural vehicle to reopen the determination that Mile High is operationally and financially fit.

13. The Hearing Commissioner also is of the opinion that § 40-6-112(1), C.R.S., may not be invoked in a pending Commission proceeding. This is an additional reason for denying the relief sought in the motions to reopen.

### **C. Scope of Certification to Operate Taxicab Service**

14. Because Mile High appealed only the taxicab service certification governed by House Bill 08-1227, the certification on remand is limited to Mile High's application to operate 150 vehicles in call-and-demand taxi service: (a) within and between all points in Adams, Arapahoe, Denver, Douglas, and Jefferson Counties; and (b) from any point within this

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<sup>6</sup> The Hearing Commissioner incorporates by reference the findings pertaining to Mile High's operational and financial fitness found in ¶¶ 37-126 of Decision No. R10-0745.

<sup>7</sup> Decision No. C05-1472, Proceeding No. 05A-161E issued December 15, 2005, ¶ 2.

five-county area to points in Boulder, Broomfield, and El Paso Counties. By statute, if an applicant is certified to serve between points in the City and County of Denver, then it is deemed also to have the authority to serve from all points in the City and County of Denver to all points in the state.<sup>8</sup>

#### D. Discussion

15. The Hearing Commissioner must determine whether, based upon the existing record, Metro Taxi<sup>9</sup> demonstrated that it is more probable than not that the public convenience and necessity does not require granting of the application and that it is more probable than not that doing so would actually be detrimental to the public interest.<sup>10</sup>

16. The Hearing Commissioner has reviewed the testimony and exhibits of expert and lay witnesses sponsored by Metro Taxi. These witnesses are: Dr. Ray Mundy,<sup>11</sup> Professor Paul Dempsey,<sup>12</sup> Tracy Letzring,<sup>13</sup> Christine O'Donnell,<sup>14</sup> Michael Hancock,<sup>15</sup>

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<sup>8</sup> Section 40-10.1-203(2)(c)(I)(A), C.R.S.

<sup>9</sup> Colorado Cab limited its advocacy to operational and financial fitness issues. It did not sponsor evidence on the issues of public convenience and necessity/public interest. *See*, Statement of Position filed by Colorado Cab on October 14, 2009, p. 1.

<sup>10</sup> Previously, the ALJ and the Commission opined that an incremental approach to evaluating market capacity better serves the public interest, due to the impracticality to cut excess capacity by regulatory means when oversupply has impaired the quality of taxicab service for consumers. Incremental evaluation of the market also allows the Commission to adjust capacity to changing market conditions on a continuing basis. Regardless of the public policy merits of that approach, the Colorado Supreme Court clarified that, under House Bill 08-1227, the Commission is *obligated* to issue a certificate unless those opposing the application are able to prove both that the public convenience and necessity did not require its issuance and that issuance of the certificate would be detrimental to the public interest. *Mile High*, 302 P.3d at 245 (emphasis added).

<sup>11</sup> Dr. Mundy testified as an expert in the area of passenger ground transportation and public policy of the taxi industry.

<sup>12</sup> Professor Dempsey testified as an expert in transportation law and policy.

<sup>13</sup> Mr. Letzring testified as an expert in environmental and civil engineering.

<sup>14</sup> Ms. O'Donnell was the President of the Colorado Hotel and Lodging Association and Metro Denver Hotel Association at the time of the hearing.

<sup>15</sup> Mr. Hancock was a Denver City Councilman.

Bill Mitchell,<sup>16</sup> Charles Goheen, Edward Rembert, Reuben Olguin, Charles Helton, and Erhan Genel.<sup>17</sup>

17. The ALJ accurately summarized the testimony of expert witnesses and other evidence introduced regarding public convenience and necessity and public interest. Therefore, the Hearing Commissioner incorporates by reference these portions of Decision No. R10-0745.<sup>18</sup> However, the Hearing Commissioner concludes that Metro did not prove by a preponderance of the evidence that the issuance of a certificate to Mile High actually would be detrimental to the public interest.<sup>19, 20</sup>

18. During the hearing, Dr. Ray Mundy discussed the empirical study of the taxicab industry he completed in June 2008 before the entry of Union Taxi Cooperative (Union Taxi) and the expansion of Freedom Cabs, Inc. (Freedom Cabs).<sup>21, 22</sup> He concluded that the supply of taxicabs was sufficient to handle the existing demand in the City and County of Denver at that time.<sup>23</sup> Dr. Mundy further testified that the entry of Union Taxi and the expansion of Freedom Cabs resulted in an oversupply of the Denver metropolitan area taxicab market.<sup>24</sup> He opined that the addition of 150 taxicabs sought by Mile High would cause a further “oversupply and fragmentation” of that market.<sup>25</sup>

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<sup>16</sup> Mr. Mitchell was employed by the Denver Convention and Visitors Bureau.

<sup>17</sup> Messrs. Goheen, Rembert, Olguin, Helton, and Genel were employed as taxicab drivers for Metro Taxi.

<sup>18</sup> *Id.*, ¶¶135-191.

<sup>19</sup> Because House Bill 08-1227 is phrased in the conjunctive, there is no need to consider whether Metro Taxi proved by a preponderance of the evidence that the public convenience and necessity does not require granting the application.

<sup>20</sup> The Hearing Commissioner does not incorporate ¶¶192-230 of Decision No. R10-0745 because these findings and conclusions are inconsistent with this Decision and/or the Colorado Supreme Court opinion.

<sup>21</sup> The entry of Union Taxi and expansion of Freedom Cabs occurred as a result of Commission decisions issued in Proceeding No. 08A-241CP.

<sup>22</sup> Ray A. Mundy, Ph. D, Denver Metropolitan Taxi Study (June 11, 2008), Hearing Exhibit 53.

<sup>23</sup> Hearing Transcript, September 9, 2009, p. 158, lines 10-14. This conclusion was based on analyzing only Colorado Cab and Metro Taxi, not Freedom Cabs. *Id.*, p. 159, lines 10-11.

<sup>24</sup> Hearing Transcript, September 9, 2009, p. 163, lines 1-4.

<sup>25</sup> *Id.*, lines 9-11.



19. According to Dr. Mundy, oversupply and fragmentation affect both taxicab services provided to and from Denver International Airport (DIA) and dispatching. To address the potential of oversupply to the airport, the City and County of Denver imposed a limit of 200 taxicabs at any one time. The limits upon taxicabs serving the airport forced the remaining taxicabs to seek other markets (hotels in downtown Denver or customers calling a taxicab company's dispatch system). Dr. Mundy's opinion ultimately rests on whether the taxicab company has a dispatch system, opining that dispatching results in more optimal utilization of a company's taxicab fleet.<sup>26</sup>

20. Dr. Mundy's opinions of "oversupply" do not translate necessarily into service detrimental to the public. Any impact of oversupply upon service to DIA airport was resolved when the City and County of Denver set a 200-taxicab limit, and Dr. Mundy admitted on cross-examination that admitting Mile High into the market will not have an impact on taxicab policies for DIA. Likewise, based upon the testimony of Mr. Michael Hancock and Mr. Bill Mitchell, the Hearing Commissioner expects that affected local government entities will address any impact of oversupply in other areas.<sup>27</sup>

21. Other opinions and recommendations contained in Dr. Mundy's study reflect an indefiniteness of the impacts, if any, that granting Mile High's application actually would have on consumers, the market, and the public interest. Dr. Mundy states that "there is still the ongoing issue of how many taxis does the Denver area require;"<sup>28</sup> yet, on the very next page he

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<sup>26</sup> Hearing Transcript, September 9, 2009, p. 208, line 8 to p. 209, line 1.

<sup>27</sup> Hearing Transcript, September 10, 2009, p. 41, line 23 to p. 42, line 5 (Mr. Hancock testified that the City and County of Denver has a downtown authority, a parking department, and excise and licensing department. These agencies are looking into the overcrowding at the taxicab stands in downtown Denver). Hearing Transcript September 14, 2009, p. 55, lines 11-14 (Mr. Mitchell testified that he would be willing to work with existing taxi companies to create more cabstands).

<sup>28</sup> Hearing Exhibit 53, p. 107.

contends that the correct number of cabs for Denver is 942 and recommends that a year-long moratorium be placed on existing taxicabs.<sup>29</sup> Further, Dr. Mundy presented his conclusions in relative terms: that the addition of 150 taxicabs will result in a further oversupply in the Denver metropolitan area taxicab market. There is no discussion of the absolute impact of this change or that the oversupply will be to a degree that is actually detrimental to the public interest. The Hearing Commissioner finds that Dr. Mundy's testimony is insufficient to prove that issuance of the certificate to Mile High would actually be detrimental to the public interest.

22. Other witnesses sponsored by Metro Taxi testified it would be prudent to study the Denver area taxicab market before granting additional certificates. For example, Dr. Paul Dempsey testified it would be premature to make any conclusions about how the market is adjusting after additional taxicabs were approved for Union Taxi and Freedom Cabs. Dr. Dempsey recommended that the Commission assess "what the appropriate ratio of taxicabs to potential patrons might be" before granting any additional authorizations.<sup>30,31</sup> Mr. Tracy Letzring advocated for an environmental analysis in order to quantify the pollution (both in terms of air quality and runoff) and to determine what methods can be taken to remediate or prevent this impact before authorizing additional taxicabs.<sup>32</sup> Likewise, Mr. Hancock testified it would be prudent to postpone any authorizations of new taxicab companies because the impact of additional taxicabs was not yet known.<sup>33</sup> These multiple calls for further studies and analyses to

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<sup>29</sup> *Id.*, p. 108.

<sup>30</sup> Hearing Transcript, September 11, 2009, p. 50, lines 16-22; p. 117, lines 3-6; p. 120, lines 2-10; Decision No. R10-0745, ¶¶ 175-176.

<sup>31</sup> In addition, Professor Dempsey warned the Commission about the dangers of taxi deregulation and what has occurred in several other cities. Hearing Exhibit 65, beginning on p. 37. However, House Bill 08-1227 does not amount to deregulation and, as a result, the concerns associated with deregulation are less relevant. House Bill 08-1227 still requires applicants to prove their operational and financial fitness by a preponderance of the evidence. The Commission previously denied two applications filed under House Bill 08-1227 on fitness grounds. Decision No. C11-0805, mailed July 28, 2011 in consolidated Proceeding No. 09A-479CP.

<sup>32</sup> Hearing Transcript, September 9, 2009, p. 76, lines 17-23; p. 77, lines 3-4; Hearing Exhibit 48, p. 2.

<sup>33</sup> Hearing Exhibit 54.

determine the impact of additional taxicabs upon the market fall short of proving an actual detriment to the public interest if the Commission approves Mile High's application.

23. Taxicab drivers offered by Metro Taxi testified that congestion in Downtown Denver increased significantly after entry of Union Taxi and expansion of Freedom Cabs, and that it became nearly impossible to get into a cab stand in that area.<sup>34</sup> This testimony pertains to only a portion of Mile High's requested service territory. None of the witnesses testified to a negative impact of granting additional taxicab authorizations in Adams, Arapahoe, Douglas, and Jefferson Counties or have studied what the impact would be in these areas.<sup>35</sup> In addition, some of the drivers stated that their income stayed the same or even increased after Union Taxi entered the market.<sup>36</sup> The Hearing Commissioner weighs this testimony with that of the taxicab drivers testifying for Mile High, who reported working shorter hours and earning more money after joining Union Taxi.<sup>37</sup> One of the drivers testifying for Mile High also observed that overall crowdedness in the cabstands in Downtown Denver did not change as a result of Union Taxi entering the market.<sup>38</sup> In addition, Metro Taxi has not demonstrated that the adverse impact of additional competition on incumbent taxicab carriers translates into adverse impact to the public interest as a whole.

24. Finally, the arguments against granting Mile High's application were based, in large part, on the assumption that Mile High would operate without a digital dispatch system.<sup>39</sup>

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<sup>34</sup> Hearing Transcript, September 10, 2009, pp. 145-161 and pp. 173-188; September 11, 2009, pp. 122-133 and 144-171.

<sup>35</sup> See, e.g., Hearing Transcript, September 9, 2009, p. 67, lines 7-17 (Letzring); September 10, 2009, p. 19, lines 5-17 (Hancock).

<sup>36</sup> Hearing Transcript, September 10, 2009, p. 150, lines 8-11; September 11, 2009, p. 168, lines 20-23.

<sup>37</sup> Hearing Transcript, September 15, 2009, p. 89, lines 3-8; p. 94, lines 10-23; p. 119, lines 20-23; p. 129, lines 13-22.

<sup>38</sup> *Id.*, p. 121, line 20 to p. 122, line 1.

<sup>39</sup> Decision No. R10-0745, ¶ 95-98, 198.

Dr. Mundy opined that the impact of oversupply is to place a premium upon deployment of a dispatch system to optimize efficiencies. This impact does not result necessarily in a diminished level of taxicab service to consumers and thus does not impair the public interest. In addition, beginning January 1, 2014, taxicab carriers operating in Arapahoe, Adams, Boulder, Broomfield, Denver, El Paso, and Jefferson Counties will be required by Commission rule to employ a GPS-based, digital dispatch system. Rule 6255, 4 *Code of Colorado Regulations* of the Rules Regulating Transportation by Motor Vehicle, 723-6.<sup>40</sup> The system must be capable of tracking and recording driver hours and of locking out drivers who have reached limitations upon the number of hours a driver may work. These rules will diminish any potential negative impacts of Mile High's entry into the market based upon an assumed lack of a dispatch system.<sup>41-42</sup>

### **E. Conclusion**

25. For the foregoing reasons, Metro Taxi has not demonstrated by a preponderance of the evidence that granting the certificate to Mile High would actually be detrimental to the public interest. The Hearing Commissioner therefore grants the part of Mile High's application before him on remand.

## **II. ORDER**

### **A. The Commission Orders That:**

1. The motions to reopen the evidentiary record to address new evidence regarding operational and financial fitness, filed on October 9, 2013 by MKBS, LLC, doing business as

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<sup>40</sup> The Commission promulgated Rule 6255 in Proceeding No. 11R-792TR and it went into effect on August 1, 2012.

<sup>41</sup> Decision No. R10-0745, ¶ 146.

<sup>42</sup> See, *Adarand Constructors, Inc., v. Slater*, 228 F.3d 1147, 1158 (10th Cir. 2000) (the court may consider changes in the law occurring during the pendency of litigation, especially where the intervening change affects the propriety of prospective relief).

Metro Taxi and/or Taxis Fiesta and/or South Suburban Taxi and Colorado Cab Company, LLC, are denied.

2. The application for a certificate of public convenience and necessity to operate as a common carrier by motor vehicle for hire filed by Mile High Cab, Inc. (Mile High) is granted, in part. Mile High is granted authority as follows: Transportation of passengers in call-and-demand taxi service: 1) between all points within the area comprised of the Counties of Adams, Arapahoe, Denver, Douglas, and Jefferson, State of Colorado; (2) from said points, on the one hand to all points in the Counties of Boulder, Broomfield, and El Paso, State of Colorado; and (3) from all points in the City and County of Denver, State of Colorado to all points in the state of Colorado. This authority is restricted to the use of a maximum of 150 vehicles in service at any time.

3. Mile High shall not commence operation until it has complied with 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 of \$5 for each vehicle to be operated under authority granted by the Commission, or in lieu thereof, paying the fee for such vehicle(s) pursuant to the Unified Carrier Registration Agreement;
- (c) having an effective tariff on file with the Commission. Mile High shall file an advice letter and tariff on not less than ten days' notice. The advice letter and tariff shall be filed as a new Advice Letter proceeding and shall 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; and
- (d) paying the applicable issuance fee.

4. If Mile High 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 authority shall 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.

5. The Commission will notify Mile High in writing when the Commission's records demonstrate compliance with Ordering Paragraph No. 3.

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

7. Pursuant to § 40-6-109, C.R.S., copies of this Recommended Decision shall be served upon the parties, who may file exceptions to it.

a) If no exceptions are filed within 20 days after service or within any extended period of time authorized, or unless the 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.

b) If a party seeks to amend, modify, annul, or reverse basic findings 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 hearing commissioner and the parties cannot challenge these facts. This will limit what the Commission can review if exceptions are filed.

8. If exceptions to this 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

JAMES K. TARPEY

\_\_\_\_\_  
Hearing Commissioner

ATTEST: A TRUE COPY

A handwritten signature in cursive script that reads "Doug Dean".

Doug Dean,  
Director