

Decision No. R23-0665-I

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 23A-0347CP

IN THE MATTER OF THE APPLICATION OF MEDRIDE, LLC FOR AUTHORITY TO EXTEND OPERATIONS UNDER CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY NO. 55980.

**INTERIM DECISION OF
ADMINISTRATIVE LAW JUDGE
ALENKA HAN
ESTABLISHING DEADLINES AND
SCHEDULING EVIDENTIARY HEARING**

Mailed Date: October 4, 2023

I. STATEMENT AND PROCEDURAL HISTORY

A. Summary

1. This Decision schedules a one-day, in-person evidentiary hearing in Grand Junction, Colorado for Friday, December 15, 2023, commencing at 9:00 a.m.

B. Procedural History

2. On June 29, 2023, MedRide, LLC (MedRide or Applicant) initiated this matter by filing an Application for Permanent Authority to Extend Operations Under Certificate of Public Convenience and Necessity No. 55980, granted by Decision No. C22-0555, issued December 19, 2022, in Proceeding No. 22A-0318CP (Extension Application). MedRide seeks to expand its existing transportation authority to provide call-and-demand shuttle services from Mesa County to all points throughout the State of Colorado.

3. MedRide was issued its Letter of Authority to operate out of El Paso County by Decision No. C22-0555, issued September 20, 2022, in Proceeding No. 22A-0318CP.

4. By Decision No. C23-0458, issued July 17, 2023, in Proceeding No. 23A-0239CP-EXT, MedRide's authority was extended to include service originating in Pueblo County, as well.

5. MedRide currently holds CPCN No. 55980, under which Letter of Authority it is entitled to provide the following services:

- (I) Transportation of passengers, in call-and-demand shuttle service between all points in El Paso County, and between said points, on the one hand, and all points in the State of Colorado, on the other hand.
- (II) Transportation of passengers, in call-and-demand shuttle service between all points in Pueblo County, and between said points, on the one hand, and all points in the State of Colorado, on the other hand.

6. MedRide's current Extension Application in this Proceeding was signed and submitted by its Vice President of Business Development, Tyler Borzileri. However, Mr. Borzileri declared that he did not wish to represent MedRide's interests in this Proceeding. Instead, the Extension Application indicated that MedRide will be represented in this Proceeding by Lenora Plimpton of Fortis Law Partners. However, Ms. Plimpton has not yet entered an appearance in this Proceeding.

7. On July 10, 2023, the Public Utilities Commission (the Commission) provided public notice under § 40-6-108(2), C.R.S., of the Extension Application. As noticed, the Application seeks:

an order of the Commission authorizing the extension of Certificate of Public Convenience and Necessity (CPCN) No. 55980. The proposed extension of operations under CPCN No. 55980 is as follows:

Transportation of passengers, in call-and-demand shuttle service between all points in Mesa County, and between said points, on the one hand, and all points in the State of Colorado, on the other hand.¹

8. On July 19, 2023, Tazco, Inc., doing business as Sunshine Taxi (Sunshine Taxi or Intervenor), filed its Notice of Intervention by Right, Alternative Motion for Intervention, Entry of Appearance and Request for Hearing. Its Intervention was submitted through its counsel, Mark Valentine of Keyes & Fox, LLP.

9. Sunshine Taxi's Letter of Authority, CPCN No. 19429, which it provided with its Intervention, authorizes Sunshine Taxi to offer the following services:

- I. Transportation of passengers, in taxi service, between all points in the County of Mesa, State of Colorado, and between these points, on the one hand, and all points in the State of Colorado, on the other hand.
- II. Transportation of passengers, in charter and call-and-demand limousine service, between all points in the County of Mesa, State of Colorado, and between these points, on the one hand, and all points in the State of Colorado, on the other hand.
- III. Transportation of passengers, in sightseeing service, between points in the Counties of Mesa and Delta, State of Colorado.

RESTRICTIONS: This Certificate is restricted as follows:

- A. Item (I) is restricted against the pickup of passengers within a ten-mile radius of the downtown post office in Telluride, Colorado;
- B. Item (II) is restricted against providing service to or from points in the County of Routt, State of Colorado;
- C. Item (II) is restricted against providing service from points within a five-mile radius of the intersection of U.S. Highway 160 and 550 in Durango, Colorado;
- D. Item (II) is restricted against providing service from points in the Counties of Gunnison, Eagle, Denver, San Juan, or Archuleta, State of Colorado;
- E. Item (II) is restricted against providing service from points within a 25-mile radius of the downtown post office in Telluride, Colorado; and

¹ Notice of Application and Petitions Filed, p. 2, filed July 10, 2023.

- F. Items (I) and (II) are restricted against the maintenance of an office within a 25-mile radius of the downtown post office in Telluride, Colorado.

10. On August 16, 2023, the Commission deemed the Extension Application complete and referred the matter to an Administrative Law Judge (ALJ) by minute entry for disposition. This Proceeding was then assigned to the undersigned ALJ.

11. By Decision No. R23-0603-I, issued September 15, 2023, the undersigned ALJ scheduled a prehearing conference for September 26, 2023, at 10:30 a.m., at which procedural issues concerning the Extension Application and evidentiary hearing would be discussed. Both parties and counsel for Intervenor were served copies of Decision No. R23-0603-I.

12. On September 26, 2023, at the appointed time, the ALJ held the fully remote prehearing conference as scheduled. Mr. Valentine appeared on behalf of Intervenor Sunshine Taxi. No one appeared on behalf of Applicant MedRide.

II. SCHEDULING OF EVIDENTIARY HEARING

13. During the prehearing conference, Intervenor and its counsel, Mr. Valentine, indicated their preference to hold the evidentiary hearing in person in Grand Junction because the extension of services sought in this Proceeding would be offered in Mesa County, Colorado, and witnesses likely to testify at the evidentiary hearing are based there. Accordingly, the ALJ scheduled an in-person evidentiary hearing to be held at the offices of the Colorado Department of Transportation in Grand Junction, Colorado, on **Friday, December 15, 2023, commencing at 9:00 A.M.** With Intervenor’s input, the ALJ scheduled the hearing and established procedural deadlines as detailed in the ordering paragraphs below.

A. Advisements

14. *All parties are on notice* that failure to appear at the evidentiary hearing may result in decisions adverse to their interests, including granting the complete relief opposing parties seek, dismissing interventions, and dismissing or granting the Application. The ALJ will deem any party's failure to appear at the hearing to be a waiver of that party's objection to the rulings made during the prehearing conference.

15. MedRide bears the burden of proof by a preponderance of the evidence that it should be granted the requested authority.² The preponderance standard requires that the evidence of the existence of a contested fact outweighs the evidence to the contrary.³ That is, the fact finder must determine whether the existence of a contested fact is more probable than its non-existence.⁴ A party meets this burden of proof when the evidence, on the whole, slightly tips in favor of that party.

16. *The parties are on notice* that filing an exhibit with the Commission does not, by itself, admit an exhibit into the record of the proceeding. An exhibit is any document or other tangible item the party wishes the ALJ to consider in reaching a decision in this matter.

17. *The parties are also on notice* that if circumstances change before the hearing date, the ALJ may modify this hearing to be held fully remotely or hybrid (in person with the option for witnesses, parties, and/or representatives to appear virtually), or may enter such other orders as appropriate in the circumstances.

² §§ 24-4-105(7); 13-25-127(1), C.R.S.; Rule 1500, 4 CCR 723-1.

³ Mile High Cab, Inc. v. Colo. Pub. Utils. Comm'n, 302 P.3d 241, 246 (Colo. 2013).

⁴ Swain v. Colo. Dep't of Revenue, 717 P.2d 507, 508 (Colo. App. 1985).

18. All parties must be familiar with and follow the Commission’s Rules of Practice and Procedure, 4 CCR 723-1, and the Commission’s Rules Regulating Transportation by Motor Vehicle, 4 CCR 723-6. The parties may obtain a copy of these rules from the Commission in hard copy or on the Commission’s website at:

<https://www.colorado.gov/pacific/dora/pucrules>

19. The parties are reminded that no witness will be permitted to testify, except in rebuttal, unless that witness has been identified on a list of witnesses filed in accordance with the procedural schedule set forth below. Likewise, no exhibit will be received in evidence, except in rebuttal, unless filed in accordance with the procedural schedule as ordered below.

20. The ALJ is entering additional orders necessary to ensure the evidentiary hearing moves forward efficiently.

III. ORDER

A. It Is Ordered That:

1. An in-person evidentiary hearing on the merits of the Application for Permanent Authority to Extend Operations Under Certificate of Public Convenience and Necessity No. 55980 in this proceeding is scheduled as follows:

DATE:	December 15, 2023
TIME:	9:00 a.m.
PLACE:	Colorado Department of Transportation 222 S. 6th St. Room 101 Grand Junction, CO 81501

2. **Deadlines for Witness Lists, Exhibit Lists, and Exhibits:** Applicant MedRide, LLC, (MedRide), must file with the Commission and serve on all parties, its pre-marked exhibits, witness lists, and exhibit lists **by the close of business on October 13, 2023**. Intervenor Tazco,

Inc., doing business as Sunshine Taxi (Sunshine Taxi), must file with the Commission and serve on all parties, its pre-marked exhibits, witness lists, and exhibit lists **by the close of business on November 3, 2023**. MedRide may supplement its witness and exhibit lists in response to Intervenor's witness and exhibit list but must do so by filing and serving amended witness and exhibit lists, and any additional exhibits not already filed **by the close of business on November 22, 2023**. Any amended witness and exhibit lists filed by MedRide on or before November 22, 2023, should list all the witnesses and exhibits that MedRide intends to present at the hearing, including those listed in its previous witness and exhibit lists, and will supersede its prior witness and exhibit lists.⁵ As noted, the parties must mark their exhibits for identification *before* filing and serving them; additional information on marking exhibits for identification is set forth below.

3. **Requirements for Witness Lists.** Witness lists must include a brief description of the witnesses' anticipated testimony and the witnesses' contact information.

4. **Requirements for Exhibit Lists.** Exhibit lists must include the hearing exhibit number assigned to each exhibit and a brief description of the exhibit. Any party may offer any exhibit sponsored by another party and is not required to include such an exhibit on their own exhibit list.

5. **Requirements for Exhibits.**

a. **Assigned Hearing Exhibit Numbers & Pre-Marking Exhibits.** The parties must mark hearing exhibits for identification using a number within their assigned

⁵ This is intended to avoid MedRide filing supplemental witness and exhibit lists, which would require the ALJ and the parties to review the original and the supplemented lists in order to determine the full lists.

hearing exhibit number block, as set forth below, and this proceeding number (23A-0347CP-EXT).

- **MedRide** is assigned hearing exhibit numbers 1 through 99;
- **Sunshine Taxi** is assigned hearing exhibit numbers 100 through 199.

6. By way of example, MedRide should pre-mark its first exhibit as “Hearing Exhibit 1, Proceeding No. 23A-0347CP-EXT” and file and serve the pre-marked exhibit consistent with the above deadlines.

7. Any settlement agreement, stipulation, or related documents memorializing any agreement reached by the parties should be filed with the Commission **no later than December 7, 2023**.

8. **Deadline to File Statements of Position:** After the evidentiary hearing, the parties may file their respective Statements of Position, in lieu of verbal closing arguments; any party wishing to do so must file with the Commission and serve on the opposing party their statement of position **by the close of business on January 5, 2024**.

9. This Decision is effective immediately.

(S E A L)



THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

ALENKA HAN

Administrative Law Judge

ATTEST: A TRUE COPY

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

Rebecca E. White,
Director