

Decision No. R24-0162-I

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 23A-0347CP-EXT

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
CONVERTING EVIDENTIARY HEARING TO
FULLY REMOTE FORMAT AND
ESTABLISHING EXHIBIT PROCEDURES**

Mailed Date: March 13, 2024

I. STATEMENT AND PROCEDURAL HISTORY

1. 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 (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.

2. 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.

3. 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.

4. 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.

5. 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 Extension 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

6. On July 19, 2023, Tazco, Inc., doing business as Sunshine Rides and/or Sunshine Taxi (Sunshine Taxi or Intervenor), filed its Notice of Intervention by Right, Alternative Motion for Intervention, Entry of Appearance and Request for Hearing.

7. 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:

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

- 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
- 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.

8. 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.

9. By Decision No. R23-0798-I, issued December 4, 2023, the undersigned ALJ scheduled an evidentiary hearing in this matter for Tuesday, March 19, 2024, in Grand Junction, Colorado.

10. In preparation for the upcoming evidentiary hearing, the ALJ issued Decision No. R24-0155-I on March 11, 2024, scheduling a prehearing conference to discuss issues relevant to the evidentiary hearing.

11. The ALJ held the prehearing conference as scheduled on **Tuesday, March 12, 2024, at 9:00 a.m.**

12. The following individuals appeared for the hearing:

- a) Henry Baskerville of Fortis Law Partners, LLC, appeared on behalf of the Applicant, along with Leni Plimpton, who is also with Fortis Law Partners; and
- b) Mark Valentine of Keyes & Fox, LLP, appeared on behalf of the Intervenor, along with the Manager of Sunshine Taxi, Kelly Milan.

13. This Decision memorializes issues discussed and decided by the parties and the ALJ at the prehearing conference.

II. CONVERSION TO FULLY REMOTE EVIDENTIARY HEARING

14. At the prehearing conference, Mr. Baskerville identified himself as lead counsel for Applicant. He explained that he is suffering from serious medical issues which will make the drive from Denver to Grand Junction and back difficult for him.

15. Briefly, Mr. Baskerville described medical conditions that limit his ability to sleep, cause abdominal pain and discomfort, and affect his nasal passages and throat. He expressed concern that the drive will exacerbate his condition, rendering him unable to effectively represent his client at the evidentiary hearing.

16. Because of these medical issues, Mr. Baskerville requested that the undersigned ALJ consider converting the evidentiary from an in-person format in Grand Junction to a fully remote format.

17. Mr. Valentine expressed his concern that converting the hearing to a different format after preparing for an in-person hearing would disadvantage his client. Mr. Milan, who appeared at the hearing with Mr. Valentine, indicated that he preferred that the hearing be held in-person because it would permit the parties' counsel as well as the undersigned ALJ to better understand the jurisdiction in which MedRide is seeking to extend its authority.

18. However, both Mr. Valentine and Mr. Milan conceded that they do not wish to worsen Mr. Baskerville's medical condition.

19. Having considered the parties' positions and arguments, the undersigned ALJ finds and concludes that converting the hearing from an in-person hearing in Grand Junction to a fully-

remote online format by which all parties appear by videoconference from their own remote locations would be in the parties' and the Commission's best interests.

20. Notably, the ALJ finds that there is a significant risk that, if the parties and their counsel were to travel to Grand Junction to conduct the hearing in-person, Mr. Baskerville may be too ill to proceed. If that were to occur, the hearing would be further delayed and the parties as well as the Commission would incur additional expenses.

21. In contrast, if the hearing is held fully remotely, Mr. Baskerville is more likely to be able to participate in the March 19, 2024 evidentiary hearing, thereby minimizing the risk of further delay.

22. Moreover, the ALJ finds and concludes that jeopardizing the health of a hearing participant is in neither the parties' nor the Commission's interest.

23. Accordingly, the March 19, 2024 evidentiary hearing will not be held in-person in Grand Junction, but will instead be held fully remotely via the Zoom platform.

24. To minimize the potential that the videoconference hearing may be disrupted by non-participants, the link and meeting ID or access code to attend the hearing will be provided to the participants by email before the hearing, and the participants will be prohibited from distributing that information to anyone not participating in the hearing.

A. Instructions for Participating in, and Observing, the Remote Hearing.

25. Attachment A to this Decision provides the information addressing how to use the Zoom platform for participating in the remote hearing.

B. Informal VideoConference Practice Session

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

27. The parties may contact a Commission Legal Assistant by email at casey.federico@state.co.us or stephanie.kunkel@state.co.us, to schedule an informal practice videoconference session.

28. The parties will receive information and a link to participate in the informal practice session by email.

C. Exhibits

29. The unified numbering system for exhibits adopted by Decision No. R23-0798-I remains in place. Parties should ensure their exhibits are numbered according to the system adopted by Decision No. R23-0798-I.

30. To ensure the fully-remote evidentiary hearing runs smoothly, the parties are to follow the instructions for exhibits set out in Attachment B, attached hereto.

D. Advisements

31. 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.

32. MedRide bears the burden of proof by a preponderance of the evidence that it should be granted the requested authority. The preponderance standard requires that the evidence of the existence of a contested fact outweighs the evidence to the contrary. That is, the fact finder

must determine whether the existence of a contested fact is more probable than its non-existence. A party meets this burden of proof when the evidence, on the whole, slightly tips in favor of that party.

33. 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.

34. The parties are also on notice that if circumstances change before the hearing date, the ALJ may modify this hearing to be held in person 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.

35. All parties must be familiar with and follow the Commission's Rules of Practice and Procedure, 4 *Code of Colorado Regulations* (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>.

36. 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.

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

III. ORDER

A. It Is Ordered That:

1. The format of the evidentiary hearing scheduled for March 19, 2024, is converted from an in-person hearing to a fully remote hearing.

2. A fully remote evidentiary hearing in this Proceeding is scheduled as follows:

DATE: Tuesday, March 19, 2024

TIME: 9:00 a.m.

PLACE: Join by videoconference using Zoom

3. All participants must comply with the requirements in Attachment A to this Decision, which is incorporated into this Decision.

4. The ALJ will hold an informal Zoom practice session upon request.

5. **Evidence Presentation at the Evidentiary Hearing.** Because the hearing will be held remotely by videoconference, all evidence must be presented electronically. Each party is responsible for ensuring that they and their respective witnesses: (a) have access to all pre-filed exhibits; and (b) can download and view documents available from box.com during the hearing.

6. The parties will adhere to the exhibit numbering system adopted for this Proceeding by Decision No. R23-0798-I, issued December 4, 2023.

7. **Instructions for Preparation and Presentation of Exhibits at Hearing:** In addition to other requirements of the Commission's Rules of Practice and Procedure, 4 *Code of Colorado Regulations* 723-1 (e.g., Rule 1202 regarding pre-filed testimony), detailed additional instructions governing the preparation and presentation of exhibits at the hearing are set out in Attachment B to this order, which is incorporated into and made part of this order.

8. This Decision is effective immediately.

(SEAL)



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