

Decision No. R24-0271

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 23A-0514CP-EXT

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

**RECOMMENDED DECISION OF
ADMINISTRATIVE LAW JUDGE
ALENKA HAN
GRANTING STIPULATED MOTION TO RESTRICTIVELY
AMEND APPLICATION,
GRANTING CONTINGENT WITHDRAWAL OF
INTERVENTIONS,
VACATING HEARING, AND
GRANTING APPLICATION AS AMENDED**

Mailed Date: April 24, 2024

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I. STATEMENT AND PROCEDURAL HISTORY

A. Summary

1. This Decision grants the parties’ Stipulated Motion to Restrictively Amend Application and Withdraw Interventions, grants the contingent withdrawal of the Interventions, vacates the evidentiary hearing scheduled for Thursday, April 25, 2024, and grants the application as amended.

B. Procedural History

2. On October 19, 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 (CPCN) No. 55980 (Extension Application), granted by Decision No. C22-0555, issued September 20, 2022, in Proceeding No. 22A-0318CP. MedRide seeks to expand its business by providing call-and-demand shuttle service from the Denver metro area (from the Counties of Adams, Arapahoe, Boulder, Broomfield, Denver, Douglas, Jefferson, Larimer, Park, and Weld) to points throughout the State of Colorado.¹

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.²

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.

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

¹Application for Permanent Authority to Extend Operations under CPCN No. 55980, filed Oct. 19, 2023.

²See Proceeding No. 23A-0347CP-EXZT, filed June 29, 2023.

- 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. On October 23, 2023, the Public Utilities Commission (the Commission) provided public notice under § 40-6-108(2), C.R.S., of this 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:

7. Transportation of passengers in call-and-demand shuttle service between all points in the Counties of Adams, Arapahoe, Boulder, Broomfield, Denver, Douglas, Jefferson, Larimer, Park, and Weld, and between said points, on the one hand, and all points in the State of Colorado, on the other hand.³ On October 30, 2023, Mountain Star Transportation LLC, doing business as Explorer Tours (Explorer Tours), filed its Petition for Intervention and Entry of Appearance.

8. Subsequently, on November 22, 2023, several entities filed a joint Notice of Intervention by Right, Alternative Motion for Intervention, Entry of Appearance, and Request for Hearing. The entities who jointly intervened are: Alpine Taxi/Limo, Inc. (Alpine Taxi); AEX, Inc. (AEX); San Miguel Mountain Ventures (SMMV), LLC; Estes Park Charters, Corp. (Estes Park Charters); and Home James Transportation Services, Ltd. (Home James Transportation) (collectively referred to as the Alpine Intervenors).

³Notice of Application and Petitions Filed, p. 2, filed July 10, 2023.

9. On November 29, 2023, the Commission deemed the Application complete and referred the matter to an Administrative Law Judge (ALJ) by minute entry for disposition. The Proceeding was subsequently assigned to the undersigned ALJ.

10. By Decision No. R24-0032-I, issued January 16, 2024, the undersigned ALJ evaluated the Intervenors' respective Interventions, determined that each had an Intervention as of Right in this Proceeding, and acknowledged all of the Interventions. The parties to this Proceeding therefore are MedRide, Explorer Tours, Alpine Taxi, AEX, SMMV, Estes Park Charters, and Home James Transportation.

11. Decision No. R24-0032-I also granted Explorer Tours' request to be represented in this Proceeding by its owner, Roman Lysenko.

12. Finally, Decision No. R24-0032-I scheduled a prehearing conference for Tuesday, January 30, 2024, to discuss the scheduling of an evidentiary hearing and establish a procedural schedule to govern this Proceeding.

13. On January 30, 2024, at the appointed time, the ALJ held the fully remote prehearing conference as scheduled.

- Henry Baskerville of Fortis Law Partners appeared on behalf of MedRide;
- Mr. Lysenko appeared on behalf of Explorer Tours; and
- Andy Ball of Keyes & Fox appeared on behalf of the Alpine Intervenors.

14. During the prehearing conference, the ALJ scheduled a fully-remote evidentiary hearing for **Thursday, April 25, 2024, commencing at 9:00 a.m.** via Zoom. Decision No. R24-0078-I, issued February 7, 2024, memorialized the hearing date and also established a procedural schedule to govern this Proceeding.

15. On April 4, 2024, Applicant filed an Unopposed Motion for Extension of Time to Supplement Exhibits, Exhibit List, and Witness List. MedRide represented that no party opposed its request for additional time to supplement its witness and exhibits lists or its exhibits, and that the parties sought additional time in order to continue their “ongoing settlement discussions.”⁴

16. By Decision No. R24-0222-I, issued April 9, 2024, the ALJ granted MedRide’s Motion for Extension of Time, giving MedRide up to and including April 11, 2024, to file its supplemental exhibits, exhibit list, and witness list.

17. Subsequently, on the evening of April 11, 2024, counsel for MedRide, Lenora Plimpton, who is also with Fortis Law Partners, informally advised the undersigned counsel that the parties had reached a stipulation to restrictively amend MedRide’s Application and withdraw the interventions. On Friday, April 12, 2024, the parties jointly filed their Stipulated Motion to Restrictively Amend Application and Withdraw Intervention (Stipulated Motion).

18. As described in the Stipulated Motion, the parties “reached a settlement contingent on a restrictive amendment of MedRide’s requested extension of CPCN authority.”⁵ The parties jointly requested that MedRide’s Application be amended with the following restrictions:

Transportation of passengers in call-and-demand shuttle service between all points in Adams, Arapahoe, Park, Boulder, Broomfield, Denver, Douglas, Jefferson, Larimer, and Weld Counties, and between said points, on the one hand, and all points in the State of Colorado, on the other hand.

RESTRICTION: This authority is restricted against:

- a) service between all points within ten miles of Estes Park, Colorado, on the one hand, and Boulder, Colorado, and that portion of Boulder County which lies north of a line beginning at the intersection of Colorado State Highway 52 and the Boulder-Weld County line, thence west over

⁴ MedRide’s Unopposed Motion for Extension of Time to Supplement Exhibits, Exhibit List, and Witness List, p. 1, ¶ 2, filed Apr. 4, 2024.

⁵ Stipulated Motion to Restrictively Amend Application and Withdraw Intervention, p. 2, ¶ 5, filed Apr. 12, 2024.

Colorado State Highway 52 as extended to the Boulder-Grand County line, on the other hand, except that such restrictions shall not include a restriction on service to or from points within a 10-mile radius of the intersection of U.S. Highways 34 and 36 in Estes Park, Colorado;

- b) service between all points within a 10-mile radius of the intersection of U.S. Highways 34 and 36 in Estes Park, Colorado, and between said points, on the one hand, and all points within a 75-mile radius of the intersection of U.S. Highways 34 and 36 in Estes Park, Colorado, on the other hand.
- c) service between Adams, Arapahoe, Park, Boulder, Broomfield, Denver, Douglas, Jefferson, Larimer, and Weld Counties, on the one hand, and all points in Routt County, on the other;
- d) service between all points located within a 10-mile radius of the intersection of Elk Avenue and Colorado State Highway 135 in Crested Butte, Colorado, on the one hand, and on the other hand, all points within a 10-mile radius of Colfax Avenue and Broadway in Denver, Colorado;
- e) against service between all points in the County of Gunnison, State of Colorado, on the one hand, and points within a 1-mile radius of Denver International Airport;
- f) service between all points in Denver, Colorado, including Denver International Airport, as the same exists on May 2, 2001, on the one hand, and all points in Grand County, Colorado, on the other hand;
- g) service between Denver County or Boulder County, on the one hand, and any of Red Rocks Park and Amphitheatre, Mount Blue Sky (Mount Evans), Lookout Mountain, or Rocky Mountain National Park, on the other hand; and
- h) service between all points located within that portion of San Miguel County lying within a 10-mile radius of Telluride, Colorado, and between said points, on the one hand, and all points within the State of Colorado, on the other hand.⁶

19. In addition, the jointly-filed Stipulated Motion provides that if the parties' agreed-upon "restrictive amendments are added to MedRide's application, Settling Intervenors will each withdraw their intervention."⁷ The Stipulated Motion identified the Settling Intervenors as Explorer Tours and the Alpine Intervenors. The parties requested that if the restrictive

⁶ *Id.* at p. 2, ¶ 5.

⁷ *Id.* at p. 2, ¶ 6.

amendments were approved, that the Commission “grant the withdrawal of each of the Settling Intervenors’ interventions.”⁸

20. If, on the other hand, the restricted amendments were not approved or granted, the Settling Intervenors reserved the right to reschedule the hearing, establish a new procedural schedule, and otherwise defend against the Extension Application.

21. As discussed more fully below, the ALJ will grant the restricted amendments and deem the Interventions withdrawn.

22. The Extension Application as amended by the parties’ Stipulated Motion is now uncontested.

23. In accordance with § 40-6-109, C.R.S., the undersigned ALJ now transmits to the Commission the record in this proceeding along with a written recommended decision.

II. FINDINGS OF FACT AND CONCLUSIONS

24. Since the Application as amended is now unopposed, the matter will be considered and processed pursuant to the Commission’s modified procedure, § 40-6-109(5), C.R.S., and Rule 1403 of the Commission’s Rules of Practice and Procedure, 4 *Code of Colorado Regulations* 723-1.

25. A proposed restricted amendment to an application for authority to operate as a contract carrier or common carrier by motor vehicle for hire must be restrictive in nature, clear and understandable, and administratively enforceable. The proposed restriction and authority must be unambiguous and must be contained entirely within the authority granted.

26. As amended and restricted, MedRide seeks an extension of its authority under CPCN No. 55980 as follows:

⁸ *Id.* at p. 3, request for relief.

Transportation of passengers in call-and-demand shuttle service between all points in Adams, Arapahoe, Boulder, Broomfield, Denver, Douglas, Jefferson, Larimer, Park, and Weld Counties, and between said points, on the one hand, and all points in the State of Colorado, on the other hand.

RESTRICTION: This authority is restricted against:

- a) service between all points within ten miles of Estes Park, Colorado, on the one hand, and Boulder, Colorado, and that portion of Boulder County which lies north of a line beginning at the intersection of Colorado State Highway 52 and the Boulder-Weld County line, thence west over Colorado State Highway 52 as extended to the Boulder-Grand County line, on the other hand, except that such restrictions shall not include a restriction on service to or from points within a 10-mile radius of the intersection of U.S. Highways 34 and 36 in Estes Park, Colorado;
- b) service between all points within a 10-mile radius of the intersection of U.S. Highways 34 and 36 in Estes Park, Colorado, and between said points, on the one hand, and all points within a 75-mile radius of the intersection of U.S. Highways 34 and 36 in Estes Park, Colorado, on the other hand.
- c) service between Adams, Arapahoe, Boulder, Broomfield, Denver, Douglas, Jefferson, Larimer, Park, and Weld Counties, on the one hand, and all points in Routt County, on the other;
- d) service between all points located within a 10-mile radius of the intersection of Elk Avenue and Colorado State Highway 135 in Crested Butte, Colorado, on the one hand, and on the other hand, all points within a 10-mile radius of Colfax Avenue and Broadway in Denver, Colorado;
- e) against service between all points in the County of Gunnison, State of Colorado, on the one hand, and points within a 1-mile radius of Denver International Airport;
- f) service between all points in Denver, Colorado, including Denver International Airport, as the same exists on May 2, 2001, on the one hand, and all points in Grand County, Colorado, on the other hand;
- g) service between Denver County or Boulder County, on the one hand, and any of Red Rocks Park and Amphitheatre, Mount Blue Sky (Mount Evans), Lookout Mountain, or Rocky Mountain National Park, on the other hand; and
- h) service between all points located within that portion of San Miguel County lying within a 10-mile radius of Telluride, Colorado, and

between said points, on the one hand, and all points within the State of Colorado, on the other hand.⁹

27. The Stipulated Motion filed jointly by the parties states that the parties have agreed that the above proposed authority, with the incorporated restrictions, is acceptable to all parties. The parties represent that the amended and restricted Extension Application as set out in the Stipulated Motion is just, reasonable, and consistent with the public interest.

28. The restrictive amendment filed by MedRide on April 12, 2024, as part of the parties' Stipulated Motion, is clear, unambiguous, and administratively enforceable. The restrictive amendment achieves the purposes sought by MedRide and the Settling Intervenors by protecting the Settling Intervenors' existing authority – while allowing MedRide to provide the substance of the service it seeks to offer. As a result, the restrictive amendment which restricts MedRide's proposed authority to operate as a common carrier by motor vehicle for hire will be accepted.

29. The ALJ will grant the contingent withdrawal of the Settling Intervenors' Interventions. The Interventions filed by Explorer Tours, Alpine Taxi, AEX, SMMV, Estes Park Charters, and Home James Transportation will be deemed withdrawn.

30. In completing and submitting the Extension Application, MedRide represented that it is familiar with the Rules Regulating Transportation by Motor Vehicle, 4 CCR 723-6, and agreed to comply with those Rules, to the extent applicable.

31. Additionally, the information provided by MedRide, as well as information available to the Commission in conjunction with MedRide's CPCN No. 55980, establishes that it possesses sufficient equipment to provide the proposed service and is financially viable to conduct

⁹ *Id.* at p. 2, ¶ 5.

operations under the authority requested. The Extension Application and the supporting information attached demonstrate that a need exists for the proposed service.

32. It is found that Applicant MedRide is fit to provide the proposed transportation service as restrictively amended and the Extension Application with the proposed restrictive amendments is reasonable, in the public interest, and should be granted.

33. MedRide will be granted, subject to conditions, an extension of its authority under CPCN No. 55980 to operate as a common carrier of passengers by motor vehicle for hire as set forth in the Appendix attached to this Decision, conditioned upon Applicant's full compliance with the requirements contained in this Decision.

34. If MedRide fails to comply with the prerequisites required by Ordering Paragraph No. 5 within 60 days of the effective date of the Decision, the requested extension of authority under CPCN PUC No. 55980 will be deemed denied and Applicant will not be granted the requested permanent authority; the extended CPCN shall not be issued; and Applicant shall not be permitted to operate under the requested authority. No further action of the Commission is required.

35. For good cause shown, the Commission may grant additional time for compliance with Ordering Paragraph No. 5 if the request for additional time is filed within 60 days of the effective date of this Decision.

36. The Commission will notify Applicant in writing when the Commission's records demonstrate Applicant has fully complied with the requirements of Ordering Paragraph No. 5. Applicant shall not begin operations without the receipt of written notification of compliance from the Commission.

37. The fully remote evidentiary hearing scheduled to commence at 9:00 a.m. Thursday, April 25, 2024, will be vacated.

38. Pursuant to § 40-6-109, C.R.S., it is recommended that the Commission enter the following order.

III. ORDER

A. It is Ordered That:

1. The Stipulated Motion to Restrictively Amend Application and Withdraw Intervention, filed by Applicant MedRide, LLC (MedRide); and Intervenors Mountain Star Transportation LLC, doing business as Explorer Tours (Explorer Tours); Alpine Taxi/Limo, Inc. (Alpine Taxi); AEX, Inc. (AEX); San Miguel Mountain Ventures (SMMV), LLC; Estes Park Charters, Corp. (Estes Park Charters); and Home James Transportation Services, Ltd. (Home James Transportation) (collectively the Settling Intervenors), on April 12, 2024, is granted.

2. The Application for Permanent Authority to Extend Operations under Certificate of Public Convenience and Necessity (CPCN) No. 55980, filed by MedRide on October 19, 2023, and the amended restrictions to the Extension Application set out in the parties' Stipulated Motion to Restrictively Amend Application and Withdraw Intervention, filed April 12, 2024, are granted consistent with the discussion above.

3. The contingent withdrawal of the Settling Intervenors' Interventions filed as part of the parties' Stipulated Motion to Restrictively Amend Application and Withdraw Intervention Interventions is likewise granted. The Interventions filed by Explorer Tours, Alpine Taxi, AEX, SMMV, Estes Park Charters, and Home James Transportation are deemed withdrawn.

4. The issuance of an extension of authority under Certificate of Public Convenience and Necessity (CPCN) PUC No. 55980 as set forth in Appendix A attached to this Decision is granted to MedRide, LLC (Applicant), subject to Applicant's full compliance with the requirements contained in Ordering Paragraph No. 5.

5. Applicant shall not be granted the extension of authority under CPCN PUC No. 55980 and shall not commence the extended operations until it has fully complied with the following conditions:

- (a) cause proof of insurance (Form E or self-insurance) or surety bond (Form G) coverage to be filed with the Commission;
- (b) pay to the Commission, the motor vehicle fee (\$50.00) for each vehicle to be operated under authority granted by the Commission, or in lieu thereof, paid the fee for such vehicle(s) pursuant to the Unified Carrier Registration Agreement;
- (c) file with the Commission and have an effective, publicly available tariff (and time schedule if applicable), which includes the extended authority. The tariff should comply with Rule 6208 of the Rules Regulating Transportation by Motor Vehicle, 4 CCR 723-6. The tariff shall be filed in a new Advice Letter/Tariff proceeding on not less than ten days' notice prior to a proposed effective date. 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 proposed effective date;
- (d) register an authorized representative as a File Administrator on behalf of Applicant in the Commission's electronic filing system (E-Filings) and agree that Applicant shall receive notifications electronically through E-Filings. Information can be found at:
www.dora.state.co.us/pls/efi/EFI.homepage, and
- (e) pay the applicable fee (\$5.00) for the issuance of the extended authority.

6. The extension of authority under CPCN PUC No. 55980 shall not be issued and Applicant shall not operate under the extended authority unless Applicant complies with all of the conditions in Ordering Paragraph No. 5.

7. If Applicant does not comply with each requirement in Ordering Paragraph No. 5 within 60 days of the effective date of this Decision, the extension of authority under CPCN PUC No. 55980 is denied without further action of the Commission. 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.

8. Applicant shall continue to operate in accordance with all applicable statutes, orders, and rules of the Commission. The Commission may issue an order to cease and desist or to suspend, revoke, alter, or amend any certificate or permit for violation of, or refusal to observe any statute, order, or rule of the Commission, consistent with § 40-10.1-112 (1), C.R.S.

9. The fully remote evidentiary hearing scheduled for Thursday, April 25, 2024, is vacated.

10. Proceeding No. 23A-0514CP-EXT is closed.

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

12. As provided by § 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 administrative law judge and the parties cannot challenge these facts. This will limit what the Commission can review if exceptions are filed.

13. 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

ALENKA HAN

Administrative Law Judge

ATTEST: A TRUE COPY

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

Rebecca E. White,
Director