

Decision No. R24-0327-I

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 24A-0116CP

IN THE MATTER OF THE APPLICATION OF 3940 EXPRESS SERVICES LLC, FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE AS A COMMON CARRIER BY MOTOR VEHICLE FOR HIRE.

**INTERIM DECISION OF
ADMINISTRATIVE LAW JUDGE
ROBERT I. GARVEY
GRANTING INTERVENTIONS, AND SETTING
PREHEARING CONFERENCE**

Mailed Date: May 15, 2024

I. STATEMENT

1. On March 11, 2024, 3940 Express Services LLC (Express Services) initiated this proceeding by filing an application seeking a Certificate of Public Convenience and Necessity (CPCN) to Operate as a Common Carrier by Motor Vehicle for Hire (Application) with the Colorado Public Utilities Commission (Commission).

2. On March 18, 2024, the Commission provided public notice of the application for a Certificate of Public Convenience and Necessity by publishing a summary of the same in its

Notice of Applications Filed:

For authority to operate as a common carrier by motor vehicle for hire for the transportation of

passengers in-call-and-demand shuttle service

between all points in the Counties of Adams, Arapahoe, Boulder, Bloomfield, Denver, Douglas, El Paso, Jefferson, Larimer County, State of Colorado

3. On April 15, 2024, Mountain Star Transportation LLC, doing business as Explorer Tours (Explorer) filed its Intervention through non-attorney Roman Lysenko. Mr. Lysenko signed Explorer Tours' Petition for Intervention and stated therein he is the owner and President of Explorer Tours. This filing attached Commission Authority No. 55952 held by Explorer.

4. On April 17, 2024, Estes Park Charters Corporation (Estes Park), filed its Intervention through its counsel Mark Valentine. This filing attached Commission Authority No. 54696 held by Estes Park¹.

5. On April 17, 2024, Denvers Airport Transport, LLC (Denvers Airport) filed its Intervention through its counsel Gabriella Stockmayer. This filing noted Commission Authority No. 55995 held by Denvers Airport.

6. On April 24, 2024, the Commission deemed the application complete and referred it by minute entry to the undersigned Administrative Law Judge (ALJ) for disposition.

II. INTERVENTIONS

7. Finding good cause, and in the absence of any objection from Applicant, the ALJ finds that all intervenors have established its standing as an intervenor in accordance with Rule 1401(f) of the Commission's Rules of Practice and Procedure.

A. Legal Representation

8. Under Rule 1201(b) 4 CCR 723-1, a party in an adjudicatory proceeding before the Commission shall be represented by an attorney *unless* the party

¹ The caption on the Notice of Intervention filed by Estes Park also includes Home James Transportation Services, and Fun Time Trolley, LLC. The body of the intervention does not mention these entities and a copy of their Commission Authority was not attached to the filing. Home James Transportation Services, and Fun Time Trolley, LLC are not parties to this proceeding.

is an individual appearing for the sole purpose of representing her/his own interests **or** for purposes of representing the interests of a closely-held entity pursuant to § 13-1-127, C.R.S. The Commission has emphasized that this requirement is mandatory and has found that if a party does not meet the criteria of this rule a non-attorney may not represent a party in such a proceeding.²

9. Express Services in its Application identified Oscar Odonkor as the owner of Express Services, stated the amount in controversy does not exceed \$15,000 and that Express Services is a closely held entity. Mr. Odonkor may represent the interests of Express Services in this proceeding.

10. Explorer in its filing of April 15, 2024, identified Mr. Lysenko as the president and owner of Explorer, stated the amount in controversy does not exceed \$15,000 and that Explorer is a closely held entity. Mr. Lysenko may represent the interests of Explorer in this proceeding.

11. A party allowed to proceed *pro se* (that is, without an attorney) in this matter, is advised, and is on notice, that its representative will be bound by the same procedural and evidentiary rules as an attorney.

III. REMOTE PREHEARING CONFERENCE

12. Given the procedural posture of the case, it is appropriate to hold a prehearing conference to address several issues. The parties to this proceeding should be prepared to discuss all procedural and substantive issues, including, but not limited to, deadlines for witness lists, exhibits, and a date(s) for a hearing on the Application.

² Decision Nos. C05-1018, Proceeding No. 04A-524W issued August 30, 2005; No. C04-1119, Proceeding No. 04G-101CP issued September 28, 2004; and No. C04-0884, Proceeding No 04G-101CP issued August 2, 2004.

13. Participants will appear at the prehearing conference from remote locations by videoconference and may not appear in person for the prehearing conference. The remote prehearing conference will be held using the web-hosted service, Zoom. Attachment A hereto includes important technical information and requirements to facilitate holding the prehearing conference remotely. All those participating in the hearing must carefully review and follow all requirements in this Decision and Attachment A.

14. 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. Parties will receive an email with information needed to join the hearing at the email addresses on file with the Commission for this Proceeding. As such, it is important that all parties ensure that the Commission has the correct email address for them.

15. Parties are on notice that failure to appear at the prehearing conference may result in dismissing the Application without prejudice or dismissing an intervention. The ALJ will deem any party's failure to appear at the prehearing conference to be a waiver of any objection to the rulings made during the prehearing conference.

16. A prehearing conference in this matter will be scheduled as ordered.

IV. ORDER

A. It Is Ordered That:

1. The interventions of Estes Park Charters Corporation, Mountain Star Transportation LLC, doing business as Explorer Tours, and Denvers Airport Transport, LLC are granted.

2. A prehearing conference in this proceeding is scheduled as follows:

DATE: May 28, 2024

TIME: 9:00 a.m.

PLACE: Join by videoconference using Zoom

3. Participants in the hearing may not distribute the hearing link, access, or ID code to anyone not participating in the hearing. Participants may not appear in person at the Commission for the above-scheduled hearing. Instead, they must participate in the hearing from remote locations, consistent with the requirements of this Decision.

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

5. The Parties shall be held to the advisements in this Decision.

6. This Decision is effective immediately.

(S E A L)



THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

ROBERT I. GARVEY

Administrative Law Judge

ATTEST: A TRUE COPY

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

Rebecca E. White,
Director