

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 24A-0201CP

IN THE MATTER OF THE APPLICATION OF PALMYRA LIMO LLC FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE AS A COMMON CARRIER BY MOTOR VEHICLE FOR HIRE.

**INTERIM DECISION SCHEDULING PREHEARING
CONFERENCE, ADDRESSING INTERVENTIONS AND
LEGAL REPRESENTATION, AND REQUIRING FILING**

Issued Date: June 27, 2024

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I. STATEMENT, SUMMARY, AND PROCEDURAL HISTORY**A. Statement and Summary**

1. This Decision schedules a remote prehearing conference for July 9, 2024, at 9:30 a.m., addresses Interventions and legal representation and requires Western Slope Rides LLC (“Western Slope”) to make filing(s) on or by July 8, 2024, addressing the matters discussed herein.

B. Procedural History

2. On May 2, 2024, Palmyra Limo LLC (“Applicant” or “Palmyra”) filed the above-captioned Application with the Public Utilities Commission (Commission) seeking a certificate of public convenience and necessity (“CPCN”) to operate as a common carrier by motor vehicle for hire for the transportation of passengers in call-and demand shuttle service between the Montrose Regional Airport, on the one hand, and the Town of Mountain Village (“Mountain Village”), Colorado, on the other hand.¹

3. On May 6, 2024, the Commission provided public notice of the Application and established a 30-day deadline to file interventions in this Proceeding.²

4. On June 3, 2024, Western Slope Rides LLC (“Western Slope”) filed an Entry of Appearance and Notice of Intervention (“Western Slope’s Intervention”), with a copy of its Letter of Authority for its CPCN, PUC No. 55885.

5. On June 4, 2024, San Miguel Mountain Ventures, LLC (“San Miguel”) filed a Notice of Intervention by Right, Alternative Motion for Intervention, Entry of Appearance and Request for a Hearing (“San Miguel’s Intervention”), with a copy of its Letter of Authority for its CPCN, PUC No. 1648 as Exhibit 1 thereto.

¹ See Application filed May 2, 2024 (Application) at 3.

² Notice of Applications and Petitions Filed May 6, 2024 (Notice) at 2.

6. On June 5, 2024, Wilson Peak Limo LLC doing business as Mountain Limo (“Mountain Limo”) filed a notice of Intervention by Right, or Alternatively, Motion to Permissively Intervene and Request for Hearing (“Mountain Limo’s Intervention”), with a copy of its Letter of Authority for its CPCN, PUC No. 47426 as Attachment 1 thereto.

7. On June 12, 2024, the Commission deemed the Application complete and referred the matter for disposition to an administrative law judge (“ALJ”) by minute entry.

II. RELEVANT LAW

8. To intervene of right, a carrier’s intervention must: state the basis for the claimed legally protected right that may be impacted by the proceeding; include a copy of the carrier’s authority; show that the carrier’s authority is in good standing; identify the specific parts of the authority that are in conflict with the application; and explain the consequences to the carrier and the public interest if the application is granted.³ An intervener’s letter of authority provides the basis for the legally protected right which an intervener claims may be impacted by the proceeding. Thus, when determining whether an intervention of right is appropriate, it is important to determine whether the intervener’s letter of authority shows that it has the right to operate in a manner that may be impacted by an application’s requested authority.

9. Generally, parties appearing before the Commission must be represented by an attorney authorized to practice law in Colorado.⁴ However, as relevant here, an individual may appear without an attorney on behalf of a company after establishing its eligibility to do so.⁵ For a company to be eligible to be represented by a non-attorney, all the below conditions must be met:

- The company must not have more than three owners;

³ Rule 1401(b) and (f)(I), of the Commission’s Rules of Practice and Procedure, 4 *Code of Colorado Regulations* (CCR) 723-1.

⁴ Rule 1201(a), 4 CCR 723-1.

⁵ Rule 1201(b)(II), 4 CCR 723-1 and § 13-1-127, C.R.S.

- The amount in controversy must not exceed \$15,000; and
- The non-attorney individual seeking to represent the company must provide the Commission with satisfactory evidence demonstrating that person's authority to represent the company in the proceeding.⁶

III. FINDINGS, ANALYSIS, AND CONCLUSIONS

A. Applicant's Legal Representation

10. The Application states that Palmyra does not have more than three owners; the amount at issue here is not more than \$15,000; and that it wishes to be represented by non-attorney Alfredo E. Barriga, who is Palmyra's owner and designated agent.⁷ Based on this, and the record, the ALJ concludes that Palmyra has established that it may be represented by a non-attorney in this Proceeding consistent with the above legal authority and that its identified representative has authority to represent it here. As such, Alfredo E. Barriga is permitted to represent Palmyra in this Proceeding.

B. Western Slope's Intervention and Legal Representation

11. Western Slope's Intervention asserts that it may intervene because the authority sought here conflicts and overlaps with its authority, PUC No. 55885.⁸ In support, it asserts that there is sufficient service in the area that the Applicant seeks to serve; that granting the application will "inflict on" current transportation operations; and that visitor volumes for Telluride and Montrose are severely impacted by slow months.⁹

12. Western Slope is not represented by an attorney, and its Intervention does not seek to be represented by a non-attorney.¹⁰

⁶ Rule 1201(b)(II), § 13-1-127(2) and (2.3)(c), C.R.S.

⁷ Application at 2 and 7.

⁸ Western Slope's Intervention at 1.

⁹ *Id.*

¹⁰ *Id.* at 1-2.

13. Although it filed a copy of its Letter of Authority, Western Slope's Intervention fails to identify the specific parts of its Authority that conflict with the Application and explain the consequences to it and the public interest if the application is granted, contrary to Rule 1401(f)(I), 4 CCR 723-1.¹¹ In addition, although a non-attorney filed its Intervention, Western Slope fails to establish that it is eligible to be represented by a non-attorney, and even fails to request that it be permitted to be presented by a non-attorney.¹² For these reasons, Western Slope's Intervention could be dismissed. However, because Western Slope took care to file a copy of its Letter of Authority, it will be given an opportunity to cure the defects in its Intervention and to make a filing addressing its legal representation, as set forth in the ordering paragraphs below.

14. *Western Slope is on notice* that if it fails to make the filing(s) required by this Decision by the established deadline, its Intervention will be rejected, and it will not be a party to this Proceeding.

C. San Miguel's Intervention

15. San Miguel's Intervention states that it may intervene of right because the authority sought here conflicts and overlaps with its authority.¹³ In support, San Miguel states that its authority allows it to provide call-and-demand shuttle service to and from points within a 100 mile radius of Telluride and expressly allows it to serve the Montrose Regional Airport, which overlaps with geographical areas that Applicant seeks to serve.¹⁴ Its Letter of Authority confirms this.¹⁵ San Miguel asserts that because the Application seeks to provide service that overlaps with its authority, it has a legally protected right that will be affected by the outcome of this Proceeding;

¹¹ *Id.*

¹² *Id.*

¹³ San Miguel's Intervention at 1.

¹⁴ *Id.*

¹⁵ Exhibit 1 to San Miguel's Intervention at 2.

there is no need for the proposed service; and granting the Application will harm it by diverting traffic from it.¹⁶ San Miguel requests that the Commission set the matter for a hearing and deny the Application.¹⁷

16. Based on San Miguel's Intervention and Letter of Authority, and the service territory at issue in the Application, the ALJ concludes that San Miguel has properly intervened as of right, consistent with the above authority. As such, San Miguel is acknowledged as a party in this Proceeding.¹⁸

D. Mountain Limo's Intervention

17. Mountain Limo's Intervention states that it may intervene of right because the authority sought here conflicts and overlaps with its authority.¹⁹ In support, Mountain Limo states that its authority allows it to provide taxi service, scheduled service, and call-and-demand charter service in San Miguel and Montrose Counties; that it does provide service to customers extensively within this area, including the Montrose Regional Airport and Mountain Village; and Applicant seeks to serve these areas.²⁰ Its Letter of Authority confirms this.²¹ Mountain Limo asserts that because the Application seeks to provide service that overlaps with its authority, it has a legally protected right that will be affected by the outcome of this Proceeding; and that granting the Application will harm it by diverting traffic from it and may impair its ability to provide service under its CPCN.²² Mountain Limo requests that the Commission set the matter for a hearing.²³

¹⁶ San Miguel's Intervention at 2.

¹⁷ *Id.* at 2-3.

¹⁸ Because San Miguel is represented by counsel, there is no need to address its legal representation.

¹⁹ Mountain Limo's Intervention at 2.

²⁰ *Id.*

²¹ *Id.* at 8.

²² *Id.* at 2-3.

²³ *Id.* at 1 and 4.

18. Based on Mountain Limo's Intervention and Letter of Authority, and the service territory at issue in the Application, the ALJ concludes that Mountain Limo has properly intervened as of right, consistent with the above authority. As such, Mountain Limo is acknowledged as a party in this Proceeding.²⁴

E. Remote Prehearing Conference

19. To move this matter forward, and in anticipation of a hearing on the Application, the ALJ is scheduling a remote prehearing conference per Rule 1409(a), 4 CCR 723-1. At the prehearing conference, an evidentiary hearing will be scheduled, and related procedural deadlines will be established (*e.g.*, deadlines to file exhibits, exhibit lists, and witness lists).

20. In addition to the above matters, during the prehearing conference, the ALJ will address the manner or location in which the hearing will be held, that is, in-person, remote, or hybrid. The Commission strives to accommodate parties' requests to hold hearings in requested locations. Here, the Application asks that the hearing be held in Telluride, Colorado.²⁵ Given the potential challenges associated with securing an appropriate hearing location in Telluride, the Commission's busy hearing schedule, and the increased expense, time, and resources required to hold a hearing in Telluride, if Applicant still wishes for the hearing to be held in Telluride, it must establish good cause for this during the prehearing conference given that parties and witnesses may be permitted to appear from remote locations via videoconference if the hearing scheduled as a fully remote hearing.

21. If the hearing is held in-person, all parties, witnesses, and the ALJ will appear in person. If the hearing is fully remote, all parties, witnesses, and the ALJ appear via

²⁴ Because Mountain Limo is represented by counsel, there is no need to address its legal representation.

²⁵ Application at 6.

videoconference via Zoom. Finally, if the hearing is hybrid, parties and witnesses may appear in person at a Commission hearing room in Denver or remotely by Zoom; the ALJ will appear in person at a Commission hearing room in Denver, Colorado.²⁶ At least one party must appear in person in Denver for the hearing to be scheduled as a hybrid hearing.

22. Other issues relevant to this Proceeding may be raised or addressed at the prehearing conference, including whether this Decision's requirements have been met, and if not, the consequences of such failures (such as rejecting or acknowledging Western Slope's Intervention and addressing its legal representation).

23. Before the prehearing conference, the parties must confer with each other on the issues that will be addressed during the prehearing conference and must be prepared to address those issues during the prehearing conference. At minimum, the parties must confer on all issues discussed herein. When conferring on a hearing date, the parties should discuss the appropriate number of days for the hearing, and plan on a hearing being held no later than October 24, 2024 (unless Applicant waives the statutory deadline for a final Commission decision to issue per § 40-6-109.5(3), C.R.S.).

24. 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.

²⁶ The ALJ cannot hold a hybrid hearing in Telluride because specialized equipment is required and cannot be removed from the Commission's offices in Denver. Thus, under the hybrid option, all those wishing to appear in person must do so at a hearing room at the Commission's offices in Denver.

25. 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 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.

26. *All parties are on notice* that failure to appear at the prehearing conference 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 prehearing conference to be a waiver of that party's objection to the rulings made during the prehearing conference.

27. *All parties are on notice* that non-attorneys representing a party will be held to the same standard as an attorney, including complying with any orders arising out of this Proceeding, 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). Both sets of Rules are available for free on the Commission's website at: <https://puc.colorado.gov/pucrules>.

IV. ORDER

A. It Is Ordered That:

1. Consistent with the above discussion, San Miguel Mountain Ventures, LLC and Wilson Peak Limo LLC doing business as Mountain Limo are acknowledged as intervening parties to this Proceeding.

2. **No later than 5:00 p.m. on July 8, 2024**, Western Slope Rides LLC (“Western Slope”) must make a filing that identifies the specific parts of its authority that are in conflict with the Application and explains the consequences to it and the public interest if the Application is granted, consistent with Rule 1401(f)(I), 4 CCR 723-1. By that same deadline, Western Slope must also either have counsel enter an appearance on its behalf or make a filing establishing that it is eligible to be represented by a non-attorney, identifying the non-attorney it wishes to represent it, and establishing that the person identified is authorized to represent it here, consistent with legal standards discussed in ¶ 9 above.

3. Consistent with the above discussion, Palmyra Limo LLC may be represented by a non-attorney in this Proceeding, Alfredo E. Barriga.

4. A fully remote prehearing conference in this Proceeding is scheduled as follows:

DATE: July 9, 2024

TIME: 9:30 a.m.

PLACE: Join by videoconference using Zoom

5. 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.

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

7. The parties must confer with each other prior to the prehearing conference consistent with the above discussion.

8. This Decision is effective immediately upon its issued date.

(S E A L)



THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

MELODY MIRBABA

Administrative Law Judge

ATTEST: A TRUE COPY

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

Rebecca E. White,
Director