

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 24A-0071CP

IN THE MATTER OF THE APPLICATION OF AURORA LIMOUSINE LLC DOING BUSINESS AS SUPERIOR AIRPORT TRANSIT LLC, FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE AS A COMMON CARRIER BY MOTOR VEHICLE FOR HIRE.

**RECOMMENDED DECISION DENYING APPLICATION
WITHOUT PREJUDICE AND CLOSING PROCEEDING**

Mailed Date: July 11, 2024

I. STATEMENT

A. Background

1. On February 9, 2024, Aurora Limousine LLC, doing business as Superior Airport Transit LLC (“Superior Airport Transit” or “Applicant”) filed the application described in the caption above (“Application”). Shehzad Mian signed the Application. In section 21 of the Application entitled “Self-Representation,” Shehzad Mian did not answer any of the questions in that section that would allow the Commission to determine whether Shehzad Mian would be permitted to represent Superior Airport Transit under Rule 1201 of the Commission’s Rules of Practice and Procedure.¹

2. On February 14, 2024, Superior Airport Transit filed an amendment to the Application (Amended Application).

¹ 4 Code of Colorado Regulations (CCR) 723-1.

3. On February 20, 2024, the Commission issued public notice of the authority sought by Superior Airport Transit in the Amended Application as follows:

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 within the following: Arvada, Aurora, Boulder, Breckenridge, Brighton, Broomfield, Castle Rock, Colorado Springs, Commerce City, Denver, Dillon, Englewood, Estes Park, Evans, Evergreen, Fairplay, Firestone, Fort Collins, Fort Lupton, Fort Morgan, Georgetown, Glenwood Springs, Golden, Gunnison, Jamestown, Littleton, Longmont, Loveland, Monument, Morrison, Parker, Thornton, Vail, Westminster, Wheat Ridge, and Winter Park, State of Colorado.

4. On February 22, 2024, Grand Mountain Rides, LLC (Grand Mountain Rides) filed a Petition to Intervene and Entry of Appearance (Grand Mountain Rides' Petition to Intervene). In the Petition, Grand Mountain Rides states that it operates in the Winter Park area, but does not have Commission-issued authority other than a luxury limousine permit.

5. On March 20, 2024 and March 21, 2024, Mountain Star Transportation LLC doing business as Explorer Tours (Explorer Tours) and Denvers Airport Transportation, LLC (Denvers Airport Transportation) filed interventions and entries of appearance, respectively. In their filings, Explorer Tours and Denvers Airport Transportation stated that the authority sought by Superior Airport Transit would, if granted, conflict with the authority granted by their CPCN Nos. 55952 and 55995, respectively. Explorer Tours and Denvers Airport Transportation also stated that they would be harmed if the Application is granted.

6. On March 27, 2024, the Commission deemed the Application complete and referred the proceeding by minute entry to an Administrative Law Judge. The proceeding was subsequently assigned to the undersigned ALJ.

7. On April 12, 2024, Decision No. R24-0228-I issued that denied Green Mountain Rides' Petition to Intervene, identified the parties in this proceeding, established a prehearing

schedule, ordered each party to file a Statement Regarding Hearing identifying the party's preference for an in-person, remote, or hybrid hearing, concluded that Explorer Tours had satisfied its burden of establishing that non-attorney Roman Lysenko can represent Explorer Tours in this proceeding pursuant to Rule 1201 of the Commission's Rules of Practice and Procedure,² and ordered Superior Airport Transit to have counsel enter an appearance in this matter on its behalf or establish that Rule 1201 of the Commission's Rules of Practice and Procedure does not require Superior Airport Transit to be represented by legal counsel in this proceeding by April 23, 2024.³ The Decision also included a description of the evidence Superior Airport Transit would have to provide to allow a non-attorney to represent Superior Airport Transit under Rule 1201, and advised Superior Airport Transit "that failure to either: (a) have legal counsel file an entry of appearance on its behalf; or (b) establish that Rule 1201 does not require it to be represented by an attorney in this proceeding, may result in dismissal of Superior Airport Transit's Application."⁴

8. On April 17, 2024, Superior Airport Transit filed a "Request for Hearing" stating that the Applicant would be "[r]epresented by a non-attorney Shehzad Mian" at the hearing. Applicant's Request for Hearing does not provide any of the evidence described in Decision No. R24-0228-I that is required by Rule 1201 of the Commission's Rules of Practice and Procedure to allow a non-attorney to represent Superior Airport Transit. Superior Airport Transport has not otherwise provided the evidence required by Rule 1201 since the filing of its Request for Hearing.

² 4 CCR 723-1.

³ *Id.*

⁴ Decision No. R24-0228-I at ¶ 8.

B. Analysis

9. Rule 1201 of the Commission’s Rules of Practice and Procedure states in relevant part:

- (a) A party . . . shall be represented by an attorney at law, currently in good standing before the Colorado Supreme Court or the highest tribunal of another state as authorized in rule 205.4, C.R.C.P.
- (b) Notwithstanding paragraph (a) of this rule, an individual who is not an attorney may represent:
 -
 - (II) the interests of a closely held entity, subject to and in accordance with § 13-1-127, C.R.S., after demonstrating eligibility to do so in the closely held entity’s initial application or petition or its motion for intervention;

10. Under § 13-1-127(1)(a), C.R.S. “[c]losely held entity’ means an entity, as defined in section 7-90-102 (20), C.R.S., with no more than three owners.” Section 13-1-127(2), C.R.S. further states an “officer” of a closely held entity may represent that entity if:

- (a) The amount at issue in the controversy or matter before the court or agency does not exceed fifteen thousand dollars, exclusive of costs, interest, or statutory penalties, on and after August 7, 2013; and
- (b) The officer provides the court or agency, at or prior to the trial or hearing, with evidence satisfactory to the court or agency of the authority of the officer to appear on behalf of the closely held entity in all matters within the jurisdictional limits set forth in this section.

11. Finally, Section 13-1-127(2.3) states in relevant part:
 For the purposes of this section, each of the following persons shall be presumed to have the authority to appear on behalf of the closely held entity upon providing evidence of the person’s holding the specified office or status:

- (a) An officer of a cooperative, corporation, or nonprofit corporation;
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- (c) A person in whom the management of a limited liability company is vested or reserved;

12. Based on the foregoing, the ALJ stated in Decision No. R24-0228-I:

Commission Rule 1201(a) requires a party in a proceeding before the Commission to be represented by an attorney authorized to practice law in the State of Colorado. However, an individual who is not an attorney may represent a company if three conditions are met: (a) the company does not have more than three owners; (b) the amount in controversy does not exceed \$15,000; and (c) the nonattorney individual seeking to represent the company provides satisfactory evidence demonstrating his or her authority to represent the company in the proceeding. There is a presumption that a corporation's officers, a partnership's partners, a limited partnership's members, and persons authorized to manage a limited liability company have authority to represent the company in a proceeding. A written resolution from a company specifically authorizing the individual to represent the company's interests in the proceeding may also be relied upon as evidence of the individual's authority to represent the company.⁵

As noted above, Decision No. R24-0228-I: (a) set a deadline of April 23, 2024 for Superior Airport Transit to either obtain counsel and have that counsel submit an entry of appearance in this proceeding, or establish that Rule 1201 does not require it to be represented in this proceeding by an attorney currently in good standing before the Supreme Court of the State of Colorado; and (b) warned Super Airport Transit that failure to comply with the foregoing requirement may result in dismissal of the Application.⁶

13. However, no attorney has entered an appearance on behalf of Superior Airport Transit in this proceeding. Nor has Superior Airport Transit provided the evidence outlined in Decision No. R24-0228-I that would allow the ALJ to determine whether Shehzad Mian is permitted to represent Superior Airport Transit in this proceeding pursuant to § 13-1-127, C.R.S. and Rule 1201 of the Commission's Rules of Practice and Procedure. As a result, Superior Airport Transit has not complied with Decision No. R24-0228-I.

⁵ *Id.* at ¶ 7 (footnotes omitted).

⁶ *Id.* at ¶ 8.

14. Based on the foregoing, and consistent with the warning in Decision No. R24-0228-I, the Application will be dismissed without prejudice. Superior Airport Transit can re-file the Application, but must answer the questions in Section 19 entitled “Self-Representation” of the Application before filing, or otherwise provide the information necessary for the Commission to determine whether Superior Airport Transit can be represented by a non-attorney. If Superior Airport Transit chooses to be represented by an attorney, then the information requested in Section 19 of the Application is unnecessary.

II. ORDER

A. The Commission Orders That:

1. The Application for a Certificate of Public Convenience and Necessity to Operate as a Common Carrier by Motor Vehicle for Hire filed by Aurora Limousine LLC doing business as Superior Airport Transit LLC on February 9, 2024, is dismissed without prejudice.

2. This proceeding is closed.

3. 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.

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.

4. If exceptions to this Recommended 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

CONOR F. FARLEY

Administrative Law Judge

ATTEST: A TRUE COPY

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

Rebecca E. White,
Director