

Decision No. R24-0625-I

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 24F-0236CP

MOUNTAIN STAR TRANSPORTATION, LLC DOING BUSINESS AS RED ROCKS SHUTTLE,

COMPLAINANT,

V.

ON LOCATION EVENTS, LLC DOING BUSINESS AS SHUTTLES TO RED ROCKS, AND ACE EXPRESS COACHES, LLC AND RAMBLIN' EXPRESS, INC.,

RESPONDENTS.

**INTERIM DECISION
DENYING MOTION TO VACATE LIMITED HEARING**

Issued Date: August 28, 2024

I. STATEMENT

A. PROCEDURAL BACKGROUND

1. This proceeding concerns the formal complaint filed by Mountain Star Transportation, LLC (“Mountain Star”) doing business as Red Rocks Shuttle on May 24, 2024, against On Location Events, LLC, doing business as Shuttles to Red Rocks (“On Location”), Ace Express Coaches, LLC, (“Ace Express”) and Ramblin’ Express, Inc. (“Ramblin Express”).

2. By Decision No. R24-0555-I, issued August 1, 2024, a limited hearing was scheduled to address Complainant’s representation and to resolve disputed jurisdictional facts.

3. On August 9, 2024, the Motion to Vacate Limited Hearing and Schedule Evidentiary Hearing was filed by Mountain Star.

4. On August 14, 2024, the Response to Motion to Vacate was filed by Ramblin Express and Ace Express.

5. On August 23, 2024, the On Location Events, LLC Response in Opposition to Motion to Vacate Limited Hearing was filed by On Location.

B. MOTION TO VACATE

6. Mountain Star filed its Motion to Vacate, Entry of Appearance, and two affidavits in response to R24-0555-I. The motion then conditionally requests that “[i]f the commission finds that the representation is addressed and the lack of jurisdiction over the subject matter is resolved Compliant [*sic*] respectfully asks to vacate the Limited Hearing and schedule Evidentiary Hearing” (emphasis added).

7. The Entry of Appearance states:

(a) Mountain Star Transportation LLC DBA Red Rocks Shuttle is a closely-held [*sic*] entity and has no more than three owners.

(b) The amount in controversy in this matter does not exceed \$15,000.

(c) Mountain Star Transportation LLC DBA Red Rocks Shuttle wishes to have its interest in this proceeding represented by Roman Lysenko.

(d) Roman Lysenko is the president and owner of Mountain Star Transportation LLC DBA Red Rocks Shuttle.

8. Affidavit 1 states:

I am the owner of Mountain Star Transportation, LLC DBA Red Rocks Shuttle. On August 8th [sic] 2024, I reviewed On Location's website <https://www.rrxshuttles.com/>, and a reseller website AXS.com that advertises Shuttles to Red Rocks offered by On Location LLC. On both websites On Location advertises as a common carrier and offers to provide transportation and shuttle services to Red Rocks without first having obtained from the commission a certificate. All companies that provide or offer to provide shuttle services are subject to Commission jurisdiction and must comply with PUC rules and regulations.

9. Affidavit 2 states:

I am the owner of Mountain Star Transportation, LLC DBA Red Rocks Shuttle. I'm a witness of Ace Express Coaches LLC and Ramblin' Express LLC operating as a common carrier without the authority from PUC between substantially fixed points and over established routes by making repeated and periodic trips between Denver and Red Rocks. Ace Express Coaches LLC and Ramblin' Express LLC operate as a utility transporting unrelated individuals and providing shuttle service without first having obtained from the commission a certificate declaring that the present or future public convenience and necessity requires or will require such operation.

C. RESPONSES

10. Ramblin Express and Ace Express respond only with legal argument. They argue both companies operate under charter bus permits subject to limited regulation rather than subject to the doctrine of regulated monopoly. Pointing to Affidavit 2, it is argued that Mountain Star suggests both that service is provided to unrelated persons and that service is provided to On Location. Regarding the suggestion that service is to unrelated persons, Ramblin Express and Ace Express contend all the passengers are traveling for a common purpose, to get to Red Rocks and to see a specific show.

11. On Location also responded only with legal argument. On location acknowledges Mr. Roman Lysenko as officer and owner of Mountain Star, undisputably not a licensed attorney. On Location next turns to the amount at issue in this proceeding:

In its Motion to Dismiss, OLE states that the amount in controversy here exceeds \$15,000, based on Mountain Star's demand for monetary penalties and an order requiring OLE to cease and desist doing business in Colorado where it has lawfully operated for nearly a decade. Decision, ¶ 24. Mountain Star's Motion simply repeats a boilerplate assertion, without any factual or legal support, that the amount in controversy here is less than \$15,000.

12. Next, it is argued that despite the bare conclusory statement in the Entry of Appearance, Mountain Star and Mr. Lysenko cannot argue in good faith that the amount in controversy in the Complaint does not exceed \$15,000.

D. DISCUSSION

13. This is an adjudicative proceeding. Mountain Star is a limited liability company.

14. As an artificial entity created by law, unlike a natural person, it generally cannot appear or act in a legal proceeding in person but must be represented by a licensed attorney. Section 13-1-127, C.R.S. provides, in part, a limited exception. *Kelley v. Keller, et. al.*, 187 P.3d 1133, 1136 (Colo. App. 2008).

15. Decision No. R24-0555-I recited the standards that Mountain Star must meet to proceed without representation. Mountain Star must obtain counsel or show that representation is not required by an attorney at law currently in good standing before the Supreme Court of the State of Colorado. A limited hearing is scheduled, in part, to provide Mountain Star an opportunity to make such a demonstration.

16. The burden is on Mountain Star to plead or present evidence of facts that affirmatively demonstrate the Commission's jurisdiction. Because the jurisdictional issue arises

from the formal complaint filed by Mountain Star without representation, Mountain Star must first demonstrate at hearing that it may proceed before the facts related to jurisdiction will be addressed.

17. Consistent with arguments in response to the motion, it is found and concluded that Mountain Star has not met its burden to show that representation is not required.

18. Mountain Star's motion only requests relief based upon two conditions precedent: that the representation is addressed and the lack of jurisdiction over the subject matter is resolved. The conditions precedent not having been met, there is no remaining relief requested in the motion. To the extent there is further requested relief, it is denied.

II. ORDER

A. It Is Ordered That:

1. The Motion to Vacate Limited Hearing and Schedule Evidentiary Hearing filed by Mountain Star on August 9, 2024, is denied.

2. This Decision is effective immediately.

(S E A L)



ATTEST: A TRUE COPY

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

G. HARRIS ADAMS

Administrative Law Judge

A handwritten signature in black ink that reads "Rebecca E. White". The signature is written in a cursive style.

Rebecca E. White,
Director