

Decision No. R25-0101-I

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 24A-0471CP-EXT

IN THE MATTER OF THE APPLICATION OF 303 PARTY BUS LLC FOR AUTHORITY TO EXTEND OPERATIONS UNDER CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY NO. 55846.

**INTERIM DECISION GRANTING IN PART THE MOTION
TO ADOPT PROCEDURAL SCHEDULE, ESTABLISHING
PROCEDURAL SCHEDULE, AND PROVIDING
INSTRUCTIONS CONCERNING EXHIBITS AND
PARTICIPATING IN HEARING**

Issued Date: February 13, 2025

I. STATEMENT

A. Procedural Background

1. On October 31, 2024, 303 Party Bus, LLC (“303 Party Bus” or “Applicant”), filed the above-captioned Application (“Application”) seeking to extend operations under Certificate of Public Convenience and Necessity (“CPCN”) No. 55846.

2. On November 12, 2024, Mountain Star Transportation, LLC dba Explorer Tours (“Mountain Star” or “Intervenor”) filed its Petition for Intervention and Entry of Appearance claiming intervention of right.

3. On December 11, 2024, the Commission referred this matter for disposition to an Administrative Law Judge (“ALJ”) by minute entry.

4. On January 29, 2025, Applicant filed its Motion to Adopt Procedural Schedule and Remote Hearing Procedures (“Motion to Adopt”). Applicant advises that Mountain Star opposes the proposed procedural schedule.

5. By Decision No. R25-0072-I, issued on January 31, 2025, the ALJ acknowledged the intervention of Mountain Star and shortened the response time to the Motion to Adopt to February 6, 2025.

6. On February 6, 2025, Intervenor filed its Response to Motion to Adopt Procedural Schedule (“Response”).

7. Also on February 6, 2025, Intervenor filed its Motion to Dismiss Application.

8. On February 7, 2025, Applicant filed its Response to Motion to Dismiss.

II. FINDINGS AND CONCLUSIONS

A. Motion to Adopt Procedural Schedule

9. In its Motion to Adopt, Applicant proposed a procedural schedule with the Applicant’s Witness List, Summary of Anticipated Witness Testimony, and Copies of Exhibits for Hearing being due on February 14, 2025; Intervenor’s Witness List, Summary of Anticipated Witness Testimony, and Copies of Exhibits for Hearing being due on February 28, 2025; and a one-day evidentiary hearing being held between March 10-25, 2025, with the hearing date subject to the availability of the ALJ.¹

10. Applicant argues that the evidentiary hearing being scheduled in mid-March 2025, would not prejudice the Intervenor because (a) the Applicant is the proponent of an order in this proceeding and bears the burden of going forward for its proposed extension; (b) in terms of adequate notice and preparation, the Intervenor has been aware of the factual and legal issues in this proceeding since at least November 11, 2024 when it filed its interventions; and (c) the

¹ See Motion to Adopt at 2.

Intervenor and the Applicant participated in a similar extension application hearing in 2024 in Proceeding No. 23A-0552CP-EXT.²

11. In its Response, Intervenor advises that Roman Lysenko, who represents the Intervenor, will be unavailable due to work-related travel obligations during the Applicant's proposed hearing dates followed by the hearing on a different case.³ Intervenor further argues that the Motion to Adopt does not present sufficient reasons to justify an expedited timeline and requests that the evidentiary hearing be scheduled in late April or early May, 2025.⁴

12. Both Applicant and Intervenor agree that the evidentiary hearing should be conducted remotely, in accordance with the Commission's customary remote hearing procedures and electronic exhibit submission.⁵

13. A procedural schedule will be adopted as ordered below.

B. Remote Evidentiary Hearing and Unified Numbering System for Hearing Exhibits

14. The evidentiary hearing will be held remotely by Zoom, as ordered below. A webcast of proceedings will be available to the public through the Commission's website.

15. This Decision, Attachment A, and Attachment B provide important information and instructions to facilitate holding the remote hearing, which all parties must follow.

16. The procedures developed for the remote evidentiary hearing are intended to replicate, as practicable, evidence presentation as it occurs when parties and witnesses are present in the hearing room. For example, participating by videoconference allows parties and witnesses

² *Id.* at 2-3.

³ *Id.* at 2.

⁴ *Id.* at 3.

⁵ *See* Motion to Adopt at 2 and Response at 2.

to view exhibits on the video conference screen while the exhibits are being offered into evidence and witnesses testify about them.

17. The remote evidentiary hearing will be conducted via videoconference using the Zoom platform. Attachment A to this Decision provides information about the Zoom platform and how to use Zoom to participate in the remote hearing. To minimize the potential that the remote hearing may be disrupted by non-participants, the link and meeting ID, or access code to attend the hearing will be provided to the parties by email approximately one week before the hearing, and the parties and witnesses will be prohibited from distributing that information to anyone not participating in the hearing.

18. At the hearing, the parties may call witnesses, present evidence, and make arguments in support of their position. Evidence includes documentary exhibits, testimony, and other tangible items that a party wishes the ALJ to consider in reaching a decision as to the allegations in this proceeding. Given that the hearing will accommodate remote participation by videoconference, exhibits must be presented electronically.

19. The Public Utilities Commission Administrative Hearings Section uses box.com to receive and manage exhibits that are first presented in this type of remote evidentiary hearing.⁶ As such, it is essential that the parties ensure they are able to access and use box.com prior to the evidentiary hearing. To this end, the parties will be provided box.com links and instructions to: (a) upload exhibits for use during the hearing; and (b) download exhibits once they are presented during the hearing.

⁶ Box.com is a web-based document sharing service. When exhibits are first presented during the hearing, the Commission will receive them electronically from each party's box.com folder for display.

20. Each party must (a) pre-mark all hearing exhibits with a hearing exhibit number within their assigned number block before uploading the exhibits to the party's designated box.com folder; (b) sequentially page-number each page of exhibits longer than two pages, with the first page number as page 1, regardless of content, before uploading the exhibits to the party's designated box.com folder; and (c) upload all pre-marked exhibits into each party's respective designated box.com folder prior to presenting them during the hearing.

21. Attachment B outlines procedures and requirements for marking and formatting exhibits aimed at facilitating efficient and smooth electronic evidence presentations at the remote hearing. It is very important that the parties carefully review and follow all requirements in this Decision and Attachments A and B.

22. In order to efficiently organize the numbering and preparation of exhibits for the hearing, the parties shall use a unified numbering system for all hearing exhibits. Blocks of hearing exhibit numbers are assigned as follows:

- 303 Party Bus is assigned hearing exhibit numbers 100 to 199; and
- Mountain Star is assigned hearing exhibit numbers 200 to 299.

C. Additional Procedural Notices and Advisements

23. The parties are on notice that the ALJ will retain the discretion to change the method by which the hearing will be conducted.

24. Additional procedural requirements may be addressed in future Interim Decisions.

25. The parties are advised that this proceeding is governed by the Rules of Practice and Procedure found at 4 CCR 723-1. The ALJ expects the parties comply with these rules. The rules are available on the Commission's website (<http://puc.colorado.gov/pucrules>), and in hard copy from the Commission.

26. Each party is specifically advised that all filings with the Commission must also be served upon all other parties in accordance with Rule 1205 of the Rules of Practice and Procedure, 4 CCR 723-1.

27. The Parties are also on notice that failure to appear at the scheduled evidentiary hearing may result in decisions adverse to their interests, including the assessment of penalties against Respondent.

D. Informational Videoconference Practice Session

28. The ALJ will hold an informal practice videoconference session if requested by any Party to give the Parties an additional opportunity to practice using Zoom and box.com before the hearing.

29. The Parties may contact the Commission Legal Assistants by email at casey.federico@state.co.us or stephanie.kunkel@state.co.us to schedule an informal practice videoconference session.

30. The Parties will receive information and a link to participate in the informal practice session by email.

III. ORDER

It is Ordered That:

1. 303 Party Bus, LLC's Motion to Adopt Procedural Schedule is granted in part.
2. A remote evidentiary hearing scheduled to commence in this matter shall be conducted at the following date, time and place:

DATE: April 14, 2025

TIME: 9:00 a.m.

PLACE: Commission Hearing Room
Suite 250
1560 Broadway
Denver, Colorado 80202

METHOD: By videoconference using zoom at the link to be provided to counsel and the parties via email prior to the hearing.⁷

3. The parties are responsible for sharing the link, meeting ID code, and passcode with witnesses and others participating in the hearing. Participants in the hearing may not distribute the link, meeting ID code, and passcode to anyone not participating in the hearing.

4. All parties must comply with the requirements in Attachments A and B to this Decision, which are incorporated herein and, in the discussion above.

5. 303 Party Bus shall file and serve: (a) a list that identifies the witnesses it intends to call at the hearing, including a summary of the anticipated testimony of each witness; and (b) copies of the exhibits it will present at the hearing no later than March 3, 2025.

6. Mountain Star shall file and serve: (a) a list that identifies the witnesses it intends to call at the hearing, including a summary of the anticipated testimony of each witness; and (b) copies of the exhibits it will present at the hearing no later than March 24, 2025.

7. The ALJ will hold an informal Zoom practice session upon request.

⁷ Instructions for using the Zoom videoconferencing platform are provided in Attachment A to this Decision.

8. This Decision is effective immediately.

(S E A L)



THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

G. HARRIS ADAMS

Administrative Law Judge

ATTEST: A TRUE COPY

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

Rebecca E. White,
Director