

Decision No. R25-0240-I

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 24A-0446-EXT

IN THE MATTER OF THE APPLICATION OF TAVA CAB LLC DOING BUSINESS AS TAVA CAB, TO EXTEND OPERATIONS UNDER CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY NO. 55994.

**INTERIM DECISION DENYING INTERVENOR'S
REQUEST FOR DISMISSAL; APPLICANT'S REQUEST
FOR ATTORNEY FEES; ALLOWING INTERVENOR TO
SUPPLEMENT FILINGS AND SCHEDULING
EVIDENTIARY HEARING**

Issued Date: April 1 , 2025

I. STATEMENT

1. On October 16, 2024, Tava Cab LLC doing business as Tava Cab (“Tava Cab” or “Applicant”) initiated the captioned proceeding by filing an application through its counsel seeking a Certificate of Public Necessity and Convenience to Operate as a Common Carrier by Motor Vehicle for Hire (“Application”) with the Colorado Public Utilities Commission (“Commission”).

2. On October 28, 2024, the Commission provided public notice of the application by publishing a summary of the same in its Notice of Applications Filed:

Currently, CPCN No. 55994 authorizes the following:

Transportation of passengers in call-and-demand taxi service:

between all points in Teller County, and between said points on the one hand, and all points in the Counties of Denver, Douglas, El Paso, Fremont, Park, and Pueblo, on the other hand.

Restriction:

This certificate is restricted against providing any taxi service that originates in El Paso County

If the extension is granted, CPCN No. 55994 will read:

1. Transportation of passengers in call-and-demand taxi service between all points in Teller County, and between said points on the one hand, and all points in the Counties of Denver, Douglas, El Paso, Fremont, Park, and Pueblo, on the other hand.

Restriction:

This portion of said certificate is restricted against providing any taxi service that originates in El Paso County.

2. Transportation of passengers in call-and-demand taxi service from Colorado Springs Peterson Field Airport, also known as City of Colorado Springs Municipal Airport, 7770 Milton E. Proby Pkwy, Colorado Springs, El Paso County, CO 80916, on the one hand, to all points in Teller County, Colorado, on the other hand.

3. Transportation of passengers in call-and-demand taxi service from the communities of Cascade, Chipita Park, and Green Mountain Falls, including all points within one mile of the town limits of Cascade, Chipita Park, and Green Mountain Falls, all located in El Paso County, Colorado, on the one hand, to all points in Teller County, Colorado, on the other hand.

4. Transportation of passengers in call-and-demand shuttle service between Colorado Springs Peterson Field Airport, also known as City of Colorado Springs Municipal Airport, 7770 Milton E. Proby Pkwy, Colorado Springs, El Paso County, CO 80916, on the one hand, and the communities of Cascade, Chipita Park, and Green Mountain Falls, including all points within one mile of the town limits of Cascade, Chipita Park, and Green Mountain Falls, all located in El Paso County, Colorado, on the other hand.

3. On November 27, 2024, Pikes Peak Cab LLC doing business as Pikes Peak Transport (“Pikes Peak” or “Intervenor”) filed its Petition for Intervention through Marcos Griego and Tamara Zvonkovich, the owners of Pikes Peak. This filing attached Commission Authority No. 55884 held by Pikes Peak.

4. On December 11, 2024, the Commission deemed the application complete and referred it by minute entry to the undersigned Administrative Law Judge (“ALJ”) for disposition.

5. On December 24, 2024, by Decision No. R24-0943-I, a prehearing conference was scheduled for January 21, 2025.

6. On January 6, 2025, Pikes Peak filed its Request to Dismiss Application (“Motion to Dismiss”).

7. On January 21, 2025, Tava Cab filed its Motion to Strike Request to Dismiss Filed by Pikes Peak Cab LLC d/b/a Pikes Peak Transport and Alternate Response in Opposition Thereto and Motion for Attorney Fees (“Motion to Strike Request to Dismiss”).

8. Also on January 21, 2025, a prehearing conference was held; the parties agreed to a procedural schedule; and the Motion to Dismiss was taken under advisement to be ruled on in a future decision including a procedural schedule.

9. On January 27, 2025, by Decision No. R25-0061-I, the Motion to Dismiss was denied, the Motion for Attorney fees was denied and a procedural scheduled was adopted. The procedural schedule required the Applicant to file its witness list and exhibits by February 21, 2025; Intervenor to file its witness list and exhibits by March 7, 2025, and set an evidentiary hearing on March 18, 2025.

10. On February 21, 2025, the Applicant filed its Motion for Extension of Time to File Witness List and Exhibits (“Motion for Extension of Time”).

11. On February 25, 2025, by Decision No. R25-0135-I, the Motion for Extension of Time was granted.

12. On March 3, 2025, Pikes Peak filed its Request for Dismissal (“Second Motion to Dismiss”).

13. On March 11, 2025, by Decision No. R215-0175-I, the evidentiary hearing scheduled for March 18 & 19, 2025, was vacated.

14. On March 17, 2025, the Applicant filed its Motion to Strike the Second Request to Dismiss; Alternate Response in Opposition Thereto; and Second Motion for Attorney Fees (“Response”).

II. SECOND MOTION TO DISMISS

A. Intervenor’s Motion

15. In the Second Motion to Dismiss, Pikes Peak states that it has propounded discovery from the Applicant on two occasions and the Applicant has failed to provide any discovery.

16. Pikes Peak attached to its Second Motion to Dismiss a copy of the discovery that was propounded on the Applicant.

17. Pikes Peak states that this failure to provide required discovery prevents Pike Peak from being able to present its case at hearing. Pikes Peak requests that the application be dismissed due to the Applicant’s failure to provide any discovery.

B. Applicant’s Response

18. Applicant takes issue with the lack of a caption and the failure of the Intervenor to sign the Second Motion to Dismiss.

19. Applicant does not dispute the allegation that discovery was propounded, and that no discovery was provided to the Intervenor. Applicant states that it was unaware that the second discovery request had been sent by Pikes Peak.

20. Applicant has supplemented its Response with the disputed discovery and requests attorney fees due to the deficiencies in the Second Motion to Dismiss.

III. DISCUSSION

A. Motion to Dismiss

21. The basis for the Second Motion to Dismiss was the failure of the Applicant to provide the requested discovery.

22. Applicant admits that it failed to notice that Pikes Peak had corrected errors contained in its first discovery request and therefore failed to provide the requested discovery. Applicant has attached the requested discovery to its Response.

23. The discovery attached to the Response appears to answer each of the questions propounded by Pikes Peak¹. By providing the requested discovery, the basis for the Second Motion to Dismiss has been made moot.

24. Since the evidentiary hearing has been vacated and additional time will be afforded to Pikes Peak to assess the discovery, there is no prejudice to Pikes Peak due to the late discovery.

25. The Motion to Dismiss is denied.

¹ The attachments were supplemented the next day in an additional filing.

B. Request for Attorney Fees

26. Applicant requests attorney fees for having to “respond to non-conforming pleadings.”² However, Applicant fails to take responsibility for its inability to realize that Pikes Peak had corrected any errors in its discovery request and then provide the discovery requested by Pikes Peak.³

27. But for the Applicant’s inability to properly assess the contents of its own files, the Second Motion to Dismiss would not have been filed.

28. The Applicant cannot cause the Second Motion to Dismiss to be filed and then request attorney fees to file a response. The request for attorney fees is totally without merit and is denied.

C. Procedural Schedule

29. Pikes Peak shall be allowed to assess the late discovery and supplement its exhibits and witness list. Pikes Peak is not required to make additional filings or re-file any exhibits previously filed—but shall be allowed to supplement its filings due to the failure of the Applicant to timely respond to discovery requests.

30. Pikes Peak shall be allowed to supplement its exhibit list and witness list until May 23, 2025.

31. The Applicant shall not be allowed to supplement its exhibit list or witness list.

32. The remote evidentiary hearing shall be rescheduled for June 3 & 4, 2025

² See Response p. 3.

³ Applicant in fact waited until 4:59 on the last day to respond to the Motion to Dismiss and attach most of the requested discovery. The Applicant fails to explain why it took that long to determine that discovery had properly been served or why it waited until the literal last minute to provide the discovery.

IV. ORDER

A. It Is Ordered That:

1. The Request for Dismissal filed by Pikes Peak Cab LLC doing business as Pikes Peak Transport (“Pikes Peak”) on March 3, 2025, is denied as moot.

2. The Second Motion for Attorney Fees filed by Tava Cab LLC doing business as Tava Cab filed on March 17, 2025, is denied.

3. Pikes Peak may supplement its previous filed exhibits and witness list until May 23, 2025.

4. An evidentiary hearing in this proceeding is rescheduled as follows:

DATE: June 3 & 4, 2025

TIME: 9:00 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.

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

7. 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