

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 03A-384CP

IN THE MATTER OF THE APPLICATION OF GLENN MICHAEL JONES, 2117 WALNUT STREET, BOULDER, COLORADO 80303, FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE AS A COMMON CARRIER BY MOTOR VEHICLE FOR HIRE.

**RECOMMENDED DECISION OF
ADMINISTRATIVE LAW JUDGE
WILLIAM J. FRITZEL
GRANTING MOTION TO DISMISS APPLICATION**

Mailed Date: January 15, 2004

I. STATEMENT, FINDINGS, AND CONCLUSIONS

1. On September 3, 2003, Glenn Michael Jones (Applicant) filed an Application for a Certificate of Public Convenience and Necessity to Operate as a Common Carrier by Motor Vehicle for Hire.

2. On September 8, 2003, the Commission issued notice of the application as follows:

For a certificate of public convenience and necessity to operate as a common carrier by motor vehicle for hire for the transportation of
passengers and their baggage in taxi service
between all points in Boulder County, State of Colorado.

3. Notices of Intervention were filed by Denver Taxi, LLC (Denver Taxi) and Boulder Taxi, LLC (Boulder Taxi); Town and Country Transportation Services, Inc. (Town and Country); Out'N About, Inc.; and Kidz Karz.

4. The Commission scheduled this matter for hearing for November 12, 2003.

5. On November 5, 2003, Denver Taxi and Boulder Taxi filed a Motion to Limit Applicant's Evidence, to Dismiss Application, and to Shorten Response Time.

6. On November 10, 2003, Applicant filed a Motion to Continue the Hearing.

7. The hearing was called as scheduled on November 12, 2003. Applicant appeared *pro se*, Boulder Taxi and Denver Taxi appeared by counsel, and Town and Country appeared *pro se*.

8. As a preliminary matter, the motions of Denver Taxi and Boulder Taxi to limit evidence and dismiss application and the motion of Applicant to continue the hearing were considered.

9. Applicant requested to continue the hearing for the reason that one of Applicant's primary witnesses was unavailable to testify.

10. Denver Taxi's and Boulder Taxi's motion to limit evidence and dismiss was based on Applicant's failure to file its witness and exhibit lists.

11. The motion of Denver Taxi and Boulder Taxi to limit Applicant's evidence and to dismiss the application was deferred. Applicant's motion to continue the hearing was orally granted. Applicant was orally ordered to file his lists of witnesses and exhibits within 30 days prior to the new date of the hearing.

12. After receiving available dates of the parties in writing, the hearing was rescheduled to January 23, 2004. (Interim Decision No. R03-1413-I, mailed December 16, 2003)

13. On January 12, 2004, Denver Taxi and Boulder Taxi filed a Renewal of Intervenor's Motion to Limit Applicant's Evidence, to Dismiss Application, and Motion to Shorten Response Time. Denver Taxi and Boulder Taxi state that they are renewing their motion to limit evidence and to dismiss the application for the reason that Applicant has failed to comply with the Commission's Rules of Practice and Procedure regarding the filing and service of witness and exhibit lists, and that Applicant has failed to comply with the oral order issued by the Commission on November 12, 2003.

14. Since it is necessary to act on the motion before the hearing, which is fast approaching, response time to the motion will be waived.

15. Having considered the renewed motion of Denver Taxi and Boulder Taxi to limit Applicant's evidence and to dismiss application, it is found that the motion has merit and should be granted. Under the provisions of the Rules of Practice and Procedure of the Commission, 4 *Code of Colorado Regulations* 723-71(b)(4), Applicant is required to file its list of witnesses and copies of its exhibits within ten days after conclusion of the notice period. The Notice of Applications Filed also states the requirements of the Commission's rules with respect to disclosure of witnesses and exhibits. Rule 71(b)(4) as well as the Commission's Notice of Applications Filed requires Applicant to file a list of witnesses and exhibits with the Commission and serve same on all parties of record.

16. A review of the official file of the Commission on January 14, 2004 indicates that Applicant has not complied with the filing and disclosure requirements of the Commission's Rules of Practice and Procedure. Applicant also has not served copies of its exhibits and witness list on Intervenor's in this case as indicated in the motion of Denver Taxi and Boulder Taxi.

17. The Applicant was given adequate opportunity to comply with the filing and disclosure requirements of the Commission. As of January 14, 2004, Applicant still has not made the appropriate filings. To allow this matter to proceed would prejudice the Intervenor in this matter. Consequently, the motion of Denver Taxi and Boulder Taxi will be granted.

18. Pursuant to § 40-6-109(2), C.R.S., it is recommended that the Commission enter the following order.

II. ORDER

A. The Commission Orders That:

1. The renewed motion of Denver Taxi, LLC and Boulder Taxi, LLC to dismiss the application is granted.

2. The application of Glenn Michael Jones, Docket No. 03A-384CP is dismissed.

3. The hearing scheduled for January 23, 2004 is vacated.

4. Response time to the renewed motion of Denver Taxi, LLC and Boulder Taxi, LLC is waived.

5. 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.

6. As provided by § 40-6-109, C.R.S., copies of this Recommended Decision shall be served upon the parties, who may file exceptions to it.

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.

7. If exceptions to this Decision are filed, they shall not exceed 30 pages in length, unless the Commission for good cause shown permits this limit to be exceeded.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Administrative Law Judge