

Decision No. R04-0239-I

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 03R-554TR

IN THE MATTER OF THE PROPOSED REPEAL AND REENACTMENT OF ALL RULES
REGULATING TRANSPORTATION BY MOTOR VEHICLE, AS FOUND IN 4 CCR 723-6, 9,
15, 23, 31, 33, AND 35.

**INTERIM ORDER OF
ADMINISTRATIVE LAW JUDGE
DALE E. ISLEY
GRANTING MOTION TO
BIFURCATE CASE, IN PART,
AND ESTABLISHING PROCEDURES**

Mailed Date: March 9, 2004

I. STATEMENT

1. The captioned rulemaking proceeding was commenced on January 15, 2004, when the Colorado Public Utilities Commission (Commission) issued its Notice of Proposed Rulemaking (NOPR) in this matter. *See*, Decision No. C03-1454. The NOPR was subsequently published in the February 10, 2004, edition of *The Colorado Register*.

2. The NOPR set this matter for hearing before an Administrative Law Judge (ALJ) on March 22 and 23, 2004. It requested that any desired written comments be submitted no later than March 2, 2004, and that any desired reply comments be submitted by March 12, 2004. The NOPR recognized, however, that oral comments would be permitted at the hearing and that additional hearing dates could be established by the ALJ.

3. This matter has now been assigned to the undersigned ALJ.

4. Pleadings filed to date indicate that the following individuals or entities have already submitted or intend to submit written and/or oral comments in this proceeding: Millers Motors; Harvey V. Mabis (Mabis); Metro Taxi, Inc. (Metro); and Yellow Transportation, LLC (Yellow).

5. On February 25, 2004, Mabis filed a pleading indicating that he intends to appear at the hearing to submit oral comments concerning the proposed re-codification of the Commission's towing carrier rules.¹ He also apparently wishes to direct questions concerning these rules to the Commission's Staff (Staff). He requests input concerning scheduling his appearance at the hearing.

6. On March 1, 2004, Metro filed a Motion to Bifurcate Case; to Set Additional Hearing Dates; and to File Supplemental Comments (Motion to Bifurcate).² Metro requests that the currently scheduled hearing dates be used by Staff to summarize the rule changes proposed in this matter and to respond to participant questions concerning the same. Metro submits that it is virtually impossible to prepare comprehensive comments concerning the proposed rules until it has had such an opportunity. It proposes that a subsequent written comment filing deadline and additional hearing dates be established so that participants can, among other things, incorporate Staff's summary into their comments.

¹ Although oral comments are allowed, written comments provide a more effective, persuasive, and efficient statement of a party's position. Therefore, Mabis is encouraged to submit his comments in writing, either prior to the current hearing dates or prior to the additional hearing dates contemplated by this Order.

² Metro also filed its initial written comments in this matter on March 1, 2004.

7. On March 3, 2004, Yellow filed a pleading indicating that it intends to submit its initial written comments no later than March 8, 2004. It requests an extension of the March 2, 2004, filing deadline if such an extension is necessary.³

8. All those wishing to submit oral or written comments in this matter should have a full opportunity to do so. The ALJ believes that the procedure outlined by the Motion to Bifurcate provides a workable method for accomplishing this goal. Therefore, it will be employed to the extent individual participants wish to avail themselves of that procedure.

9. Accordingly, at the commencement of the hearing on March 22, 2004, Staff will be afforded an opportunity to provide its review of the rule re-codifications that are the subject of this proceeding. Staff has informally advised the ALJ that such a review will take approximately one-half day (*i.e.*, the morning of March 22, 2004). Since this is an estimate only, those participants wishing to direct questions to Staff should attend the hearing during this time so that their questioning may commence immediately after Staff has concluded its review. Participants will have an opportunity to direct questions to the involved Staff representative(s) at that time in this order: Mabis, Metro, Yellow, and any other participants appearing at the hearing. Questioning of Staff may continue on March 23, 2004, if it is not completed on March 22, 2004. Time limitations may be imposed to allow all participants an opportunity to direct questions to Staff during this two-day hearing period.

10. Participants should be prepared to advise the ALJ of the number of additional days of hearing they anticipate will be necessary to complete this matter, as well as their

³ Formally granting such an extension is unnecessary.

availability for the same, at the conclusion of the hearing on March 22, 2004.⁴ Additional hearing days will then be scheduled along with deadlines for the advance submission of written comments (supplemental or otherwise). Participants wishing to submit written and/or oral comments in accordance with this schedule will be allowed, but will not be required, to do so.

11. Notwithstanding the above, an attempt will be made to allow participants who do not wish to participate in the extended comment filing and hearing schedule contemplated by this Order to submit their oral comments on the currently scheduled hearing dates.

II. ORDER

A. It Is Ordered That:

1. The Motion to Bifurcate Case; to Set Additional Hearing Dates; and to File Supplemental Comments filed in this matter by Metro Taxi, Inc., is granted, consistent with the terms of this Order.

2. This Order shall be effective immediately.

⁴ It is anticipated that such additional hearings will be held in the July 15, 2004 through September 15, 2004, timeframe. At this point in time, participants should reserve September 7 and 8, 2004 on their respective calendars as potential additional hearing dates..

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Administrative Law Judge