

Decision No. R04-0400-I

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 04A-073CP-EXTENSION

IN THE MATTER OF THE APPLICATION OF MTV GROUP, LLC, FOR AUTHORITY TO
EXTEND OPERATIONS UNDER CERTIFICATE OF PUBLIC CONVENIENCE AND
NECESSITY PUC NO. 55728.

**INTERIM ORDER OF
ADMINISTRATIVE LAW JUDGE
MANA L. JENNINGS-FADER
GRANTING ORAL REQUEST AND
ENLARGING RESPONSE TIME**

Mailed Date: April 16, 2004

I. STATEMENT

1. On February 19, 2004, MTV Group, LLC (Applicant), filed its Application for an Extension of Certificate of Public Convenience and Necessity PUC Number 55728 (Application). The Application commenced this proceeding.

2. On February 23, 2004, the Commission gave public notice of the Application. *See* Notice of Application Filed, dated February 23, 2004. The hearing is scheduled for April 26, 2004.

3. Golden West Commuter, LLC (Golden West), Metro Taxi, Inc., Nemarda Corporation, Boulder Express, LLC, and Denver Taxi, LLC, have intervened of right in this matter. Each opposes the Application.

4. On April 8, 2004, Golden West filed a Motion to Dismiss and Alternate Motion in Limine and Motion for Shortened Response Time. By Decision No. R04-0387-I the undersigned

Administrative Law Judge (ALJ) granted the request for shortened response time. Response to the Motion to Dismiss and Alternate Motion in Limine is due at noon on April 19, 2004.

5. On April 16, 2004, Applicant made an oral request for additional time to respond to the Motion to Dismiss and Alternate Motion in Limine. As grounds, Applicant stated that he has contacted his counsel and provided a copy of the Motion to Dismiss and Alternate Motion in Limine and of Decision No. R04-0387-I to counsel. Applicant further stated that counsel informed Applicant that, due to scheduled appearances and press of other business, counsel does not have time to address the Motion to Dismiss and Alternate Motion in Limine until Monday, April 16, 2004, at the earliest. Thus, the deadline of noon on April 16, 2004, cannot be met.

6. The ALJ finds that Applicant has stated good cause for additional time. In addition, because the ALJ will have time to decide the Motion to Dismiss and Alternate Motion in Limine before the scheduled hearing date, no party will be prejudiced by the granting of the request for additional time. *See also* ¶ 7, *infra*. The request will be granted. Applicant will be ordered to file its response to the Motion to Dismiss and Alternate Motion in Limine on or before close of business on April 21, 2004.

7. Applicant is put on notice that, even if the Motion to Dismiss and Alternate Motion in Limine is denied, granting this enlargement of time may result in a change in the hearing date. If necessary, this issue will be addressed in a future order.

8. In the event Applicant does not respond to the Motion to Dismiss and Alternate Motion in Limine, the ALJ may find that Applicant has confessed that motion and, on that basis, grant the motion.

9. Given the need to address this request for additional time prior to April 19, 2004, and given the absence of prejudice to any party, response time to the request will be waived.

II. ORDER

A. It Is Ordered That:

1. The request for additional time to response to the Motion to Dismiss and Alternate Motion in Limine is granted.

2. Response to the Motion to Dismiss and Alternate Motion in Limine shall be filed on or before close of business on April 21, 2004.

3. Failure of Applicant MTV Group, LLC, to file a response on or before close of business on April 21, 2004, may result in a finding that MTV Group, LLC, has confessed the Motion to Dismiss and Alternate Motion in Limine and, further, may result in the Motion to Dismiss and Alternate Motion in Limine being granted.

4. This Order is effective immediately.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Administrative Law Judge