

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO**

DOCKET NO. 04A-073CP-EXTENSION

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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.

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**RECOMMENDED DECISION OF  
ADMINISTRATIVE LAW JUDGE  
MANA L. JENNINGS-FADER  
GRANTING MOTION TO DISMISS  
APPLICATION, DISMISSING APPLICATION  
WITHOUT PREJUDICE, VACATING  
HEARING DATE, DENYING MOTIONS  
AS MOOT, AND CLOSING DOCKET**

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Mailed Date: April 21, 2004

**I. STATEMENT, FINDINGS, AND CONCLUSION**

1. By its Application for an Extension of Certificate of Public Convenience and Necessity PUC Number 55728 (Application), MTV Group, LLC (Applicant), seeks to extend operations under its existing Certificate of Public Convenience and Necessity as more specifically described in the Notice of Application Filed (Notice) dated February 23, 2004. The Application, filed on February 19, 2004, commenced this docket.

2. On February 23, 2004, the Commission gave public notice of the Application. *See Notice*, dated February 23, 2004, at 2.

3. On March 1, 2004, Golden West Commuter, LLC (Golden West), intervened of right. On March 4, 2004, Metro Taxi, Inc., intervened of right. On March 22, 2004, Nemarda Corporation and Boulder Express, LLC, doing business as Boulder Express Shuttle (collectively, Nemarda/BE), intervened of right. On March 24, 2004, Denver Taxi, LLC, intervened of right.

4. On March 29, 2004, the Commission issued its Order Setting Hearing and Notice of Hearing in this proceeding. That Order scheduled the hearing in this matter for April 26, 2004.

5. On April 8, 2004, Golden West filed a Motion to Dismiss and Alternate Motion in Limine. Response to this Motion to Dismiss is due April 22, 2004. *See* Decisions No. R04-0387-I and No. R04-0400-I.

6. On April 16, 2004, Nemarda/BE filed a Motion to Strike or Dismiss Application or, in the alternative, Motion in Limine. Response to this Motion to Strike is due April 30, 2004.

7. On April 20, 2004, Applicant filed a Motion to Withdraw Application (Motion). Applicant requests that the Commission permit Applicant to withdraw its Application.

8. The Administrative Law Judge (ALJ) finds and concludes that the Motion states good cause, that granting the Motion will not prejudice any party, and that the Motion will be granted. The Application will be dismissed without prejudice.

9. In view of the nature of the Motion and the fast-approaching hearing date, response time to the Motion will be waived.

10. In view of the granting of the Motion, the hearing scheduled for April 26, 2004, will be vacated.

11. In view of the granting of the Motion, the pending Motion to Dismiss and Alternate Motion in Limine filed by Golden West will be denied as moot.

12. In view of the granting of the Motion, the pending Motion to Strike or Dismiss Application or, in the alternative, Motion in Limine filed by Nemarda/BE will be denied as moot.

13. In view of the granting of the Motion, Docket No. 04A-073CP-Extension will be closed.

14. In accordance with § 40-6-109, C.R.S., the ALJ recommends that the Commission enter the following order.

## **II. ORDER**

### **A. The Commission Orders That:**

1. The Motion to Withdraw Application is granted.
2. The Application for an Extension of Certificate of Public Convenience and Necessity PUC Number 55728 filed by MTV Group, LLC, is dismissed without prejudice.
3. The hearing scheduled for April 26, 2004, is vacated.
4. The Motion to Dismiss and Alternate Motion in Limine is denied as moot.
5. The Motion to Strike or Dismiss Application or, in the alternative, Motion in Limine is denied as moot.
6. Response time to the Motion to Withdraw Application is waived.
7. Docket No. 04A-073CP-Extension is closed.
8. 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.
9. As provided by § 40-6-106, 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 recommended 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 a basic finding 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.

10. If exceptions to this Recommended 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

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Administrative Law Judge