

Decision No. R04-1480-I

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

DOCKET NO. 04A-548BP

---

IN THE MATTER OF THE APPLICATION OF MESA DEVELOPMENTAL SERVICES, FOR  
AUTHORITY TO OPERATE AS A CONTRACT CARRIER BY MOTOR VEHICLE FOR  
HIRE.

---

**INTERIM ORDER OF  
ADMINISTRATIVE LAW JUDGE  
ANTHONY M. MARQUEZ  
REQUIRING APPLICANT TO  
FILE INFORMATION  
REGARDING REPRESENTATION**

---

---

Mailed Date: December 14, 2004

**I. STATEMENT**

1. This Docket concerns the Application to operate as a contract carrier by motor vehicle by Mesa Developmental Services (Mesa or Applicant). Mesa filed this Application on October 26, 2004. After notice of the Application, Tazco, Inc, doing business as Sunshine Taxi (Sunshine Taxi) intervened in this matter. Sunshine Taxi opposes Mesa's Application. Hearing on the Application is now scheduled for January 5, 2005.

2. According to the Application, Mesa is a nonprofit corporation. Steven Patrick serves as the President of Applicant's Board of Directors; Shari Sjerven serves as the Vice President of the Board. The Application, however, was signed by Anita Pisciotte, apparently the Executive Director of Mesa. The Application does not indicate that Ms. Pisciotte is an attorney.

3. Rule 21(a), Commission Rules of Practice and Procedure,<sup>1</sup> provides that, except for those circumstances listed in Rule 21(b), a party to a Commission proceeding may be represented only by an attorney at law currently in good standing before the Supreme Court of Colorado (or, with Commission permission, before the highest tribunal of another state). Rule 21(b) lists those circumstances in which a non-attorney may represent the interests of another party before the Commission. Since the present docket concerns a contested Application for contract carrier authority, the only apparent circumstance that might permit Ms. Pisciotte to represent Mesa in this proceeding is that specified in Rule 21(b)(2).

4. Rule 21(b)(2) permits a non-attorney to appear on behalf of a closely held corporation, but only as provided in § 13-1-127, C.R.S.

5. Section 13-1-127(a), C.R.S., defines “closely held entity”—this includes a closely held corporation—as an entity with no more than three owners. And according to § 13-1-127(2), C.R.S., a closely held entity may be represented by an “officer” of such entity (even if that officer is not an attorney) if: (a) the amount in controversy in the case does not exceed \$10,000; and (b) the officer provides the agency (*i.e.*, the Commission) satisfactory evidence of the officer’s authority to appear on behalf of the closely held entity.

6. In light of the statements made by Ms. Pisciotte in the Application (discussed above) and the-above referenced statutory and regulatory provisions regarding representation of parties by non-attorneys in Commission proceedings, I order Mesa to file the information specified here. Generally, if Mesa intends that Ms. Pisciotte appear on its behalf in this case, it must provide evidence showing that she is authorized to do so under the provisions of Commission Rule 21(b)(2). In particular, Mesa is directed to file a sworn affidavit (by a person

---

<sup>1</sup> 4 *Code of Colorado Regulations* 723-1.

in authority) addressing: (a) whether Mesa is a closely held corporation according to the statutory criteria; (b) whether the amount in controversy in this case exceeds \$10,000 with a detailed explanation of the basis for that conclusion; and (c) documentation establishing that Ms. Pisciotte is an officer of Mesa who is authorized to represent Mesa in this proceeding. (If the Applicant is aware of other legal authority that would authorize Ms. Pisciotte to appear on its behalf, besides the possibility that Mesa is a closely held entity, it should provide that information in its filing.) Mesa is directed to file this affidavit on or before December 23, 2004.

7. In the alternative, Mesa may file, on or before December 23, 2004, a pleading stating that it will be represented in this matter by an attorney at law currently in good standing before the Colorado Supreme Court. The identified attorney must enter an appearance in this matter on or before December 23, 2004.

8. I will enter further appropriate orders in this case after the December 23, 2004 filings.

II. **ORDER**

**A. It Is Ordered That:**

1. On or before December 23, 2004, Mesa Developmental Services shall file that information discussed in paragraphs 6 and 7 above.

2. In the event Mesa Developmental Services elects to retain counsel in this matter as provided in paragraph 7 above, counsel for Mesa Developmental Services shall enter an appearance in this proceeding on or before December 23, 2004.

3. This Order is effective immediately.

THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF COLORADO

---

Administrative Law Judge