

Decision No. R16-0238

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 15A-0647CP

IN THE MATTER OF THE APPLICATION OF EZ TAXI LLC 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
G. HARRIS ADAMS
AWARDING ATTORNEY'S FEES**

Mailed Date: March 23, 2016

I. STATEMENT, FINDINGS, AND CONCLUSIONS

1. On August 5, 2015, EZ Taxi, LLC (Applicant or EZ Taxi) filed an Application for New Permanent Authority to Operate as a Common Carrier of Passengers by Motor Vehicle for Hire. That filing commenced this Proceeding.

2. By Decision No. R15-1312-I, EZ Taxi was found “not diligent in its discovery obligations, to say the least, prior to discovery being compelled. EZ Taxi failed to cooperate with discovery in good faith. Not only were responses incomplete, they were so incomplete that EZ Taxi clearly intended to evade discovery. EZ Taxi further failed to comply with Decision No. R15-1270-I.” Decision No. R15-1312-I at ¶26.

3. Sanctions for EZ Taxi’s actions were imposed pursuant to Rule 1405(g) of the Rules of Practice and Procedure, 4 CCR 723-1. EZ Taxi was “ordered to pay Colorado Cab’s attorney fees and costs in an amount and proportion to be determined by separate decision as attributable to the lack of good faith as to the discovery. Colorado Cab may file an affidavit of costs and attorney fees.” Decision No. R15-1312-I at 10.

4. On January 19, 2016, the Affidavit of Attorney's Fees was filed by Colorado Cab Company, LLC d/b/a Denver Yellow Cab and Boulder Yellow Cab (Colorado Cab), Colorado Springs Transportation, LLC d/b/a Yellow Cab Company of Colorado Springs (Colorado Springs Transportation), and MKBS, LLC d/b/a Metro Taxi (Metro Taxi). The affidavit filed confirms that counsel conferred with counsel for EZ Taxi regarding amounts requested for recovery in the affidavit, in compliance with Decision No. R15-1312-I, prior to filing of any affidavit. *See* Decision No. R15-1312-I at 10.

5. No response was filed to the affidavit.

6. The amount for "total for work performed" appearing on page two of the affidavit filed is incorporated herein by reference.

7. Awarding the amount for the "total for work performed" is reasonable in light of the harm and prejudice imposed by the lack of good faith regarding discovery obligations.

II. ORDER

A. The Commission Orders That:

1. EZ Taxi shall forthwith pay Colorado Cab Company, LLC d/b/a Denver Yellow Cab and Boulder Yellow Cab, Colorado Springs Transportation, LLC d/b/a Yellow Cab Company of Colorado Springs, and MKBS, LLC d/b/a Metro Taxi the total amount for work performed as reflected in the Affidavit of Attorney's Fees, [REDACTED]

[REDACTED].

2. 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.

3. 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 suspended 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 Settlement Agreement 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.

4. 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.

(S E A L)



ATTEST: A TRUE COPY

Doug Dean,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

G. HARRIS ADAMS

Administrative Law Judge