

Decision No. R22-0822-I

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 22A-0473CP

IN RE THE MATTER OF THE APPLICATION OF AL RAZAQ IMPORT & EXPORT LLC
FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE AS A
COMMON CARRIER BY MOTOR VEHICLE FOR HIRE.

**INTERIM DECISION OF
ADMINISTRATIVE LAW JUDGE
MELODY MIRBABA
ADDRESSING INTERVENTIONS AND
REPRESENTATION, AND
SCHEDULING REMOTE PREHEARING CONFERENCE**

Mailed Date: December 20, 2022

I. STATEMENT, SUMMARY, AND BACKGROUND

A. Statement and Summary

1. This Decision addresses Interventions and the parties' legal representation, requires Intervener Flatirons Transportation LLC doing business as Green Ride Charter Service and Green Ride Boulder (Green Ride) to make a filing as detailed herein, and schedules a remote prehearing conference for January 10, 2023 to move this matter forward.

B. Procedural History

2. On October 31, 2022, Al Razaq Import & Export LLC (Al Razaq or Applicant) initiated this matter by filing an Application for Permanent Authority to Operate as a Common Carrier by Motor Vehicle for Hire (Application). Applicant seeks a Certificate of Public Convenience and Necessity (CPCN) to operate as a common carrier by motor vehicle for hire for the transportation of passengers in call-and-demand shuttle service between all points in in the

following Colorado Counties: Adams, Arapahoe, Boulder, Broomfield, Denver, Douglas, El Paso, and Jefferson.

3. On November 7, 2022, the Public Utilities Commission (the Commission) provided public notice of the Application per § 40-6-108(2), C.R.S.¹

4. On November 21, 2022, Green Ride filed a timely “Petition for Intervention and Entry of Appearance” (Green Ride’s Intervention) opposing the Application.

5. On November 28, 2022, Mountain Star Transportation LLC doing business as Explorer Tours (Mountain Star) filed a timely “Petition for Intervention and Entry of Appearance” (Mountain Star’s Intervention) opposing the Application.

6. On December 14, 2022, the Commission deemed the Application complete and referred the matter an Administrative Law Judge (ALJ) by minute entry.

II. RELEVANT LAW, FINDINGS, ANALYSIS, AND CONCLUSIONS

A. Relevant Law

7. Generally, parties appearing before the Commission must be represented by an attorney authorized to practice law in Colorado.² However, an individual may appear without an attorney on behalf of a company after showing eligibility.³ To do so, all the below conditions must be met:

- The company must not have more than three owners;
- The amount in controversy must not exceed \$15,000; and
- The non-attorney individual seeking to represent the company must provide the Commission with satisfactory evidence demonstrating his or her authority to represent the company in the proceeding.⁴

¹ See Notice of Applications and Petitions filed November 7, 2022.

² Rule 1201(a) of the Commission’s Rules of Practice and Procedure, 4 *Code of Colorado Regulations* (CCR) 723-1.

³ § 13-1-127, C.R.S.; Rule 1201(b)(II), 4 CCR 723-1.

⁴ § 13-1-127(2) and (2.3)(c), C.R.S.; Rule 1201(b)(II), 4 CCR 723-1.

8. It is presumed that a corporation's officers, a partnership's partners, a limited partnership's members, and persons authorized to manage a limited liability company have authority to represent the company in the proceeding.⁵ A written resolution from a company specifically authorizing the individual to represent the company's interests in the proceeding may also be relied upon as evidence of the individual's authority to represent the company.⁶

9. Two classes of parties may intervene in proceedings such as this: parties with a legally protected right that may be impacted by the proceeding (intervention of right), and parties with pecuniary or tangible interests that may be substantially impacted by the proceeding (permissive intervention).⁷ To intervene of right, a carrier's intervention must: state the basis for the claimed legally protected right that may be impacted by the proceeding; include a copy of the carrier's authority; show that the carrier's authority is in good standing; identify the specific parts of the authority that are in conflict with the application; and explain the consequences to the carrier and the public interest if the application is granted.⁸ A carrier's letter of authority provides the basis for the legally protected right which an intervener claims may be impacted by the proceeding. Thus, when determining whether an intervention of right is appropriate, it is important to determine whether the intervener's letter of authority shows that it has the right to operate in a manner that may be impacted by an application's requested authority.

B. Applicant's Legal Representation

10. In its Application, Al Razaq states that it wishes for its interests to be represented without an attorney, that it does not have more than three owners, and that the amount in

⁵ § 13-1-127(2) and (2.3)(c), C.R.S.

⁶ § 13-1-127(3), C.R.S.

⁷ Rule 1401(b) and (c), 4 CCR 723-1; *See* § 40-6-109(1), C.R.S.; and *RAM Broadcasting of Colo. Inc., v. Public Utilities Comm'n*, 702 P.2d 746, 749 (Colo. 1985).

⁸ Rule 1401(b) and (f)(I), 4 CCR 723-1.

controversy does not exceed \$15,000.⁹ Applicant asks that Saidou Compaore, the Applicant's manager, and designated agent, be permitted to represent it in this Proceeding.¹⁰

11. Based on the Application and the record as a whole, the ALJ concludes that Applicant has established that it may be represented by a non-attorney, to wit, Saidou Compaore. As such, the ALJ will allow Saidou Compaore to represent the Applicant in this Proceeding.

C. Green Ride's Intervention and Representation

12. Green Ride asserts that it may intervene of right because the authority sought here overlaps with its authority, among other reasons.¹¹ In support, Green Ride states that its authority permits it to provide call-and-demand charter service in following Colorado Counties: Adams, Arapahoe, Boulder, Broomfield, Denver, Douglas, Jefferson, Larimer, and Weld.¹² Based on its authority, Green Ride asserts that it has a legally protected right that will be impacted by the outcome of this Proceeding.¹³ Green Ride requests that the Commission set the Application for a hearing.¹⁴

13. With its Intervention, Green Ride submitted its Letter of Authority. Green Ride's Letter of Authority establishes that it owns CPCN No. 55893. As relevant here, Green Ride's CPCN authorizes it to transport passengers in call-and-demand charter and shuttle service between all points in following Colorado Counties: Adams, Arapahoe, Boulder, Broomfield, Denver, Douglas, Jefferson, Larimer, and Weld.

⁹ Application at 7.

¹⁰ *Id.* at 2 and 7.

¹¹ Green Ride's Intervention at 1-2.

¹² *Id.* at 1.

¹³ *Id.* at 2.

¹⁴ *Id.*

14. Based on the above, Green Ride’s CPCN and Intervention, and the Application, the ALJ finds that Green Ride has properly intervened of right consistent with Rule 1401(b) and (f), 4 CCR 723-1.

15. As to its legal representation in this matter, Green Ride states that it will be represented by Ross Alexander, its owner, who enters his appearance “pursuant to Rule 1201(b)(II) and § 13-1-127(2), C.R.S.,” but includes no additional information about its representation.¹⁵ The ALJ finds that Green Ride has failed to establish that it is eligible to be represented by a non-attorney consistent with Rule 1201(b)(II), 4 CCR 723-1 and § 13-1-127(2), C.R.S. As such, the ALJ will order Green Ride to have counsel enter an appearance on its behalf or submit information establishing that it is entitled to be represented by a non-attorney. If it fails to make either of these filings by the established deadline, Green Ride’s Intervention will be dismissed.

D. Mountain Star’s Intervention and Legal Representation

16. Mountain Star asserts that it may intervene of right because the authority sought here overlaps with its authority, among other reasons.¹⁶ In support, Mountain Star states that its authority allows it to transport passengers in call-and-demand sightseeing service in Boulder, Denver, Douglas, Grand, Jefferson, Clear Creek, El Paso, and Larimer Counties, which Applicant seeks to serve. Based on its authority, Mountain Star asserts that it has a legally protected right that will be impacted by the outcome of this Proceeding.¹⁷ Mountain Star requests that the Commission set the Application for a hearing.¹⁸

¹⁵ *Id.*

¹⁶ Mountain Star’s Intervention at 1.

¹⁷ *Id.* at 1-2.

¹⁸ *Id.* at 2.

17. With its Intervention, Mountain Star submitted its Letter of Authority. Mountain Star's Letter of Authority establishes that it owns CPCN No. 55952. As relevant here, Mountain Star's CPCN authorizes it to transport passengers in call-and-demand sightseeing service originating in Denver and Boulder Counties to all points in Denver, Boulder, Clear Creek, Douglas, El Paso, Grand, Jefferson, and Larimer Counties, returning to the origination point.

18. Based on the above, Mountain Star's CPCN and Intervention, and the Application, the ALJ finds that Mountain Star has properly intervened of right consistent with Rule 1401(b) and (f), 4 CCR 723-1.

19. As to its legal representation in this matter, Mountain Star states that: it will be represented by Mr. Roman Lysenko, its President and owner; Mountain Star is a closely-held entity with no more than three owners; and the amount in controversy does not exceed \$15,000.¹⁹ Based on the foregoing and the record as a whole, the ALJ finds that Mountain Star has established that it is eligible to be represented by a non-attorney consistent with Rule 1201(b)(II), 4 CCR 723-1 and § 13-1-127(2), C.R.S. As such, the ALJ will permit Mountain Star to be represented in this matter by a non-attorney, to wit, Mr. Roman Lysenko.

E. Remote Prehearing Conference

20. To move this matter forward, and in anticipation of a hearing on the Application, the ALJ is scheduling a remote prehearing conference per Rule 1409(a), 4 CCR 723-1.

21. Participants will appear at the prehearing conference from remote locations by video-conference and may not appear in person for the prehearing conference. The remote prehearing conference will be held using the web-hosted service, Zoom. Attachment A hereto includes important technical information and requirements to facilitate holding the prehearing

¹⁹ *Id.*

conference remotely. All those participating in the hearing must carefully review and follow all requirements in this Decision and Attachment A.

22. To minimize the potential that the video-conference hearing may be disrupted by non-participants, the link and meeting ID or access code to attend the hearing will be provided to the participants by email before the hearing, and the participants will be prohibited from distributing that information to anyone not participating in the hearing.

23. At the prehearing conference, an evidentiary hearing on the Application will be scheduled and related procedural deadlines will be established (*e.g.*, deadlines to file exhibits, exhibit lists, and witness lists). During the prehearing conference, the ALJ will address the manner or location in which the hearing will be held, that is, in-person, remote, or hybrid. In-person hearings require all parties, witnesses, and the ALJ to appear in person at a Commission hearing room located in downtown Denver. Remote hearings require all parties, witnesses, and the ALJ to appear remotely via Zoom. Hybrid hearings allow parties and witnesses to appear in person or remotely by Zoom and the ALJ to appear in person. The parties must be prepared to provide their position on the manner in which the hearing will be held, and to address the other issues discussed above during the prehearing conference. Other issues relevant to this Proceeding may be raised or addressed at the prehearing conference.

24. *All parties are on notice that failure to appear at the prehearing conference may result in decisions adverse to their interests, including granting the complete relief opposing parties seek, dismissing interventions, and dismissing or granting the Application. The ALJ will deem any party's failure to appear at the prehearing conference to be a waiver of that party's objection to the rulings made during the prehearing conference.*

III. ORDER

A. It Is Ordered That:

1. A remote prehearing conference in this Proceeding is scheduled as follows:

DATE: January 10, 2023

TIME: 1:00 p.m.

PLACE: Join by video conference using Zoom.

2. Participants in the hearing may not distribute the hearing link, access, or ID code to anyone not participating in the hearing. Participants may not appear in person at the Commission for the above-scheduled hearing. Instead, they must participate in the hearing from remote locations, consistent with the requirements of this Decision.

3. All participants must comply with the requirements in Attachment A to this Decision, which is incorporated into this Decision.

4. Al Razaq Import & Export LLC (Al Razaq or Applicant) LLC may be represented in this matter by Saidou Compaore, a non-attorney.

5. Mountain Star Transportation LLC doing business as Explorer Tours (Mountain Star) is a party to this Proceeding, having intervened of right.

6. Mountain Star may be represented in this matter by Roman Lysenko, a non-attorney.

7. Flatirons Transportation LLC doing business as Green Ride Charter Service and Green Ride Boulder (Green Ride) is a party to this Proceeding, having intervened of right.

8. No later than 5:00 p.m. on January 4, 2023, Green Ride must cause counsel to file an entry of appearance on its behalf in this Proceeding or make a filing establishing that it is eligible to be represented by a non-attorney under Rule 1201, 4 *Code of Colorado Regulations* 723-1.

9. This Decision is effective immediately.

(S E A L)



THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

MELODY MIRBABA

Administrative Law Judge

ATTEST: A TRUE COPY

A handwritten signature in black ink, appearing to read "G. Harris Adams".

G. Harris Adams,
Interim Director