

Decision No. R22-0824-I

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

PROCEEDING NO. 22A-0335CP

---

IN THE MATTER OF THE APPLICATION OF TIPSY VELO LLC, DOING BUSINESS AS TIPSY VOYAGE, 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  
AVIV SEGEV  
ADDRESSING REPRESENTATION, ESTABLISHING  
PROCEDURES, AND SETTING HEARING**

---

---

Mailed Date: December 27, 2022

**I. STATEMENT**

**A. Procedural Background**

1. On July 21, 2022, Topsy Velo, LLC, d/b/a Topsy Voyage (Topsy Voyage or Applicant) filed with the Commission its Permanent Authority Application (Application), through which Applicant seeks a Certificate of Public Convenience and Necessity (CPCN) to operate as a common carrier by motor vehicle for hire. This filing commenced Proceeding No. 22A-0335CP.

2. On July 25, 2022, the Commission issued a Notice of Applications and Petitions Filed (Notice). The Notice gave notice of the Application, set procedural deadlines, and established a 30-day intervention period.

3. On July 26, 2022, Powderhorn Pacific, LLC, d/b/a Powderhorn Mountain Resort (Powderhorn) timely noticed its intervention of right.

4. On August 22, 2022, Pali-Tours Ltd (Pali-Tours) and Absolute Prestige Limousine II LLC (Absolute Prestige) timely noticed their intervention of right.

5. On August 23, 2022, Rapid Creek Cycles & Sports, LLC (Rapid Creek) timely noticed its intervention of right.

6. On August 24, 2022, Colorado Detours LLC d/b/a Western Colorado Wine Tour (Colorado Detours) timely noticed its intervention of right.

7. On August 31, 2022, the Commission, via a minute entry, deemed the Application complete and referred Proceeding No. 22A-0335CP to an Administrative Law Judge (ALJ) for disposition.

8. On November 9, 2022, by Decision No. R22-0708-I, the ALJ, required Pali-Tours, Absolute Prestige, and Colorado Detours, each, to obtain legal counsel or make a show cause filing showing why it is not required to be represented by counsel by November 23, 2022.

9. On November 15, 2022, Absolute Prestige made a filing responsive to Decision No. R22-0708-I.

10. On November 22, 2022, Colorado Detours made a filing responsive to Decision No. R22-0708-I.

11. On November 23, 2022, Pali-Tours made a filing in response to Decision No. R22-0708-I.

12. Also on November 23, 2022, by Decision No. R22-0764-I, the ALJ scheduled a remote prehearing conference in this matter for December 13, 2022.

13. On December 13, 2022, the remote prehearing conference was held as scheduled. Mr. Lee Ewing appeared on behalf of Powderhorn. Mr. Ronald Buecheler appeared on behalf of Rapid Creek. Dr. David Noe appeared on behalf of Colorado Detours. Ms. Shirleen Hutton appeared on behalf of Absolute Prestige. Mr. Dave Smith appeared on behalf of Pali-Tours.

**B. Legal Representation by Non-Attorney**

14. The ALJ finds that the filings made by Absolute Prestige, Colorado Detours, and Pali-Tours in response to Decision No. R22-0708-I, as well as other applicable portions of the record, establish that Absolute Prestige, Colorado Detours, and Pali-Tours meet the requirements listed in Rule 1201(b), 4 *Code of Colorado Regulations* (CCR) 723-1 to be represented by non-attorneys in this matter.

15. The ALJ finds that Dr. Noe, Ms. Hutton, and Mr. Smith may represent Colorado Detours, Absolute Prestige, and Pali-Tours, respectively, in this proceeding.

**C. Procedural Schedule, Discovery Procedures and Evidentiary Hearing**

16. During the prehearing conference that was held on December 13, 2022: no party objected to a 2-day hearing on March 16-17, 2023. Topsy Voyage, Rapid Creek, Absolute Prestige, and Pali-Tours voiced a preference for a hearing in Grand Junction. Topsy Voyage indicated that, during the evidentiary hearing, it intends to call witnesses who reside in the area of Grand Junction, Colorado. Powderhorn indicated that it preferred to participate in a hybrid evidentiary hearing in Denver, or a remote hearing; however, it would not object to an in-person hearing in Grand Junction. Colorado Detours voiced a preference for a hybrid or remote evidentiary hearing that would allow it to appear remotely. All parties agreed to submit their final witness and exhibit lists no later than February 3, 2023. Finally, all parties agreed to otherwise adhere to the procedures set forth in Rule 1405 of the Rules of Practice and Procedure, 4 CCR 723-1.

17. The holding of an offsite<sup>1</sup> hybrid evidentiary hearing poses a significant technical challenge to the Commission.

---

<sup>1</sup> An offsite hybrid hearing would be held at a location other than the Commission's hearing room in Denver, Colorado.

18. Given the preferences indicated in paragraph 16 and the limitation indicated in paragraph 17, the ALJ will accommodate an in-person hearing in Grand Junction, Colorado on March 16-17, 2022.

19. To facilitate the orderly and efficient litigation of this proceeding, each party will be ordered to file (or supplement), and to serve on each other, a list of witnesses the party intends to call, including a detailed summary of the testimony of each witness, and copies of the exhibits the filing party intends to present at the hearing.

20. Parties are advised that no witness will be permitted to testify, except in rebuttal, unless that witness is identified on a list of witnesses filed and served in accordance with the procedural schedule. Parties are advised further that no exhibit will be received in evidence, except in rebuttal, cross, or cross answer, unless filed and served in accordance with the procedural schedule.

21. Each Party is specifically reminded that all filings with the Commission must also be served upon the other Party and its counsel, in accordance with Rule 1205 of the Rules of Practice and Procedure, 4 CCR 723-1.

22. As agreed by the parties, the discovery in this proceeding shall be permitted in accordance with Rule 1405, 4 CCR 723-1.

23. Additional procedural requirements may be addressed in future Interim Decisions.

**D. Hearing Exhibit Number Block Assignment**

24. In order to efficiently organize the numbering and preparation of exhibits for the hearing, all parties must use a unified numbering system for all hearing exhibits. Blocks of hearing exhibit numbers are assigned as follows:

- Topsy Voyage is assigned hearing exhibit numbers 100 to 199;

- Powderhorn is assigned hearing exhibit numbers 200 to 299;
- Rapid Creek is assigned hearing exhibit numbers 300 to 399;
- Colorado Detours is assigned hearing exhibit numbers 400 to 499;
- Absolute Prestige is assigned hearing exhibit numbers 500 to 599; and
- Pali-Tours is assigned hearing exhibit numbers 600 to 699.

**E. Additional Procedural Notice**

25. The parties are on notice that the ALJ will retain full discretion to adopt procedures governing this proceeding, including with respect to the method, location, and time of the evidentiary hearing.

**II. ORDER**

**A. It Is Ordered That:**

1. Dr. David Noe, Ms. Shirleen Hutton, and Mr. Dave Smith may represent Colorado Detours LLC d/b/a Western Colorado Wine Tour, Absolute Prestige Limousine II LLC, and Pali-Tours Ltd, respectively, in this proceeding.

2. An in-person evidentiary hearing shall be conducted at the following date, time, and place:

DATE: March 16-17, 2023

TIME: 9:00 a.m. daily

PLACE: Location to be determined  
Grand Junction, Colorado

3. All parties shall file and serve their respective final witness and exhibit lists no later than February 3, 2023.

4. When filing copies of exhibits and lists of witnesses, parties shall file (or supplement) and serve (a) a list that identifies the witnesses each party intends to call at the hearing, including a detailed summary of the anticipated testimony of each witness and (b) copies of the exhibits each party will present at the hearing.

5. This Decision shall be effective immediately.

(S E A L)



THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF COLORADO

AVIV SEGEV

Administrative Law Judge

ATTEST: A TRUE COPY

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

G. Harris Adams,  
Interim Director