

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 13A-1186CP-EXTENSION

IN THE MATTER OF THE APPLICATION OF HIGH COUNTRY SHUTTLE, INC., TO
EXTEND OPERATIONS UNDER CERTIFICATE OF PUBLIC CONVENIENCE AND
NECESSITY NO. 55806.

**RECOMMENDED DECISION OF
ADMINISTRATIVE LAW JUDGE
MELODY MIRBABA
DISMISSING APPLICATION
WITHOUT PREJUDICE**

Mailed Date: January 13, 2014

I. STATEMENT, FINDINGS, AND CONCLUSION

1. On November 1, 2013, High Country Shuttle Inc. (Applicant), filed an Application to Extend Operations under Certificate of Public Convenience and Necessity No. 55806 (Application).

2. The Commission provided public notice of the Application on November 4, 2013.

3. On December 4, 2013 Colorado Coach Transportation LLC and MT Acquisitions LLC, doing business as High Mountain Taxi (collectively, interveners), timely intervened of right (by separate filings).

4. During the Commission's weekly meeting held December 11, 2013, the Commission deemed the Application complete and referred it to an administrative law judge (ALJ) for disposition.

5. By Decision No. R13-1545-I, the ALJ scheduled this matter for a prehearing conference for January 8, 2014 at 10:00 a.m. at the Commission's Offices.

6. At the designated date, time, and location, the ALJ convened the hearing.

7. Mr. Imre Zelizi appeared on behalf of Applicant. Mr. Zelizi is Applicant's owner. Mr. Charles Kimball appeared by telephone on behalf of interveners.¹

8. At the hearing, Applicant admitted that its authority was recently revoked for failing to have proof of financial responsibility on file with the Commission. Decision No. R13-1472 in Proceeding No. 13C-1255-INS. The Decision revoking Applicant's authority became a final Commission Decision on December 17, 2013. Applicant admitted that he did not file proof of insurance prior to the date the Decision revoking his authority became final.

9. Mr. Zelizi stated that he intends to take action on the revocation of Applicant's permit. To that end, he brought a letter for the Commission to consider. He indicated he would file it with the Commission, as appropriate.

10. Generally, a case is moot when a judgment would have no practical effect upon an existing controversy. *Archibold v. Pub. Utils. Comm'n*, 58 P.3d 1031, 1036 (Colo. 2002); *People v. Abdul*, 935 P.2d 4, 6 (Colo. 1997); see *People v. Espinoza*, 819 P.2d 1120, 1121 (Colo. App. 1991).

¹ Mr. Kimball did not file a motion or make an informal request to the ALJ for consent to appear by telephone. The ALJ allowed the telephone appearance, but advised Mr. Kimball to file a motion should he wish to appear by telephone in the future. The ALJ again advises Mr. Kimball of this fact. At future hearings, the ALJ may not allow Mr. Kimball to participate by telephone if he does not obtain the ALJ's consent to do so *prior* to the hearing.

11. Here, no live controversy exists because there is no authority to be extended. At the hearing, the ALJ explained to Mr. Zelizi that the issues in this proceeding became moot when Applicant's permit was permanently revoked.

12. Interveners agreed that the Applicant should be dismissed in light of the fact that the authority has been revoked.

13. The ALJ will recommend that the Application be dismissed without prejudice, to preserve Applicant's ability to re-apply should Applicant's authority be reinstated.

14. Pursuant to § 40-6-109, C.R.S., and for the foregoing reasons and authorities, the ALJ recommends that the Commission enter the following order.

II. ORDER

A. The Commission Orders That:

1. Consistent with the discussion above, High Country Shuttle Inc.'s Application to Extend Operations Under Certificate of Public Convenience and Necessity No. 55806 is dismissed without prejudice, as moot.

2. Proceeding No. 13A-1186CP-Extension is closed.

3. 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.

4. 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 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 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 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.

5. 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

MELODY MIRBABA

Administrative Law Judge