

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 13A-1243BP

IN THE MATTER OF THE APPLICATION OF YISHAK TESFAYE DOING BUSINESS AS
PIONEER TRANSPORTATION SERVICES FOR A PERMIT TO OPERATE AS A
CONTRACT CARRIER BY MOTOR VEHICLE FOR HIRE.

**INTERIM DECISION OF
ADMINISTRATIVE LAW JUDGE
ROBERT I. GARVEY
PERMITTING APPLICANT TO
APPEAR WITHOUT LEGAL COUNSEL
AND SETTING PREHEARING CONFERENCE**

Mailed Date: January 15, 2014

I. STATEMENT

1. On November 22, 2013, Yishak Tesfaye, doing business as Pioneer Transportation (Pioneer or Applicant), filed an Application for New Permanent Authority to Operate as a Contract Carrier of Passengers by Motor Vehicle for Hire. That filing commenced this proceeding.

2. On December 2, 2013, the Commission issued its Notice of Application Filed (Notice) in this proceeding by publishing a summary of the same in its Notice as follows:

For authority to operate as a contract carrier by motor vehicle for hire for the transportation of

passengers

between all points in the Counties of Arapahoe and Denver, State of Colorado.

RESTRICTIONS: This application is restricted:

(a) to the transportation of passengers who are recipients of Medicaid;

- (b) to providing Non-Medical Transportation (NMT) services for the Colorado Department of Health Care Policy and Financing, 1570 Grant Street, Denver, Colorado;
- (c) against providing transportation services to or from airports, hotels and motels; and,
- (d) to no more than two (2) vehicles in service at any one time.

3. On December 16, 2013, MKBS, LLC, doing business as Metro Taxi and/or Taxis Fiesta and/or South Suburban Taxi (Metro Taxi) filed their Entry of Appearance and Notice of Intervention of Right through counsel. This filing attached Commission Authority No. 1481 held by Metro Taxi and a preliminary list of witnesses and exhibits.

4. On January 8, 2014, by Minute Order, the Commission referred this matter to an Administrative Law Judge (ALJ)

A. Application Deemed Complete and Time for Commission Decision.

5. On January 8, 2013, by Minute Order, the Commission deemed the Application complete as of that date. When it filed the Application, Pioneer provided neither its supporting testimony and exhibits nor a detailed summary of its direct testimony and copies of its exhibits in support of the Application.

6. Pursuant to § 40-6-109.5(2), C.R.S., and absent an enlargement of time by the Commission¹ or Applicant's waiver of the statutory provision, a Commission decision on the Application should issue on or before 210 days from the date on which the Commission deemed the Application to be complete.

¹ Section 40-6-109.5(4), C.R.S., permits the Commission to extend the time for decision an additional 90 days upon a finding of extraordinary conditions.

B. Legal Counsel/Self Representation

7. *Rule 1201(a) of the Rules of Practice and Procedure, 4 Code of Colorado Regulations* (CCR) 723-1, requires a party in a proceeding before the Commission to be represented by an attorney except that, pursuant to *Rule 1201(b)(I)*, 4 CCR 723-1, and as relevant here, an individual who is not an attorney may appear to represent his or her own interests.

8. The ALJ notes that the application and an Affidavit of Eligibility were executed by Yishak Tesfaye who wishes to represent his own interest in the above captioned proceeding.

9. Review of the information provided by Mr. Tesfaye and the information provided in the Application establishes that Mr. Tesfaye may represent his own interests.

10. Having met the requirements of *Rule 1201(b)*, 4 CCR 723-1, Mr. Tesfaye shall be allowed to represent himself.

11. Applicant is advised, and is on notice, that Mr. Tesfaye is the only non-attorney who is authorized to be Yishak Tesfaye, doing business as Pioneer Transportation's representative in this proceeding.

12. Mr. Tesfaye is advised, and is on notice, that he shall be bound by the same procedural and evidentiary rules as attorneys. The Colorado Supreme Court has held that,

“[b]y electing to represent himself [in a criminal proceeding,] the defendant subjected himself to the same rules, procedures, and substantive law applicable to a licensed attorney. A pro se defendant cannot legitimately expect the court to deviate from its role of impartial arbiter and [to] accord preferential treatment to a litigant simply because of the exercise of the constitutional right of self-representation.”

People v. Romero, 694 P.2d 1256, 1266 (Colo. 1985).

This standard applies as well to civil proceedings.

Negron v. Golder, 111 P.3d 538, 541 (Colo. App. 2004).

If a litigant, for whatever reason, presents his own case to the court, he is bound by the same rules of procedure and evidence as bind those who are admitted to practice law before the courts of this state.

Loomis v. Seely, 677 P.2d 400, 402 (Colo. App. 1983).

A judge may not become a surrogate attorney for a *pro se* litigant.

Id.

C. Prehearing Conference

13. Given the procedural posture of the case, it is appropriate to hold a prehearing conference to address several issues. The parties to this proceeding should be prepared to discuss all procedural and substantive issues, including, but not limited to, deadlines for witness lists, exhibits, and a date for hearing on the Application.

14. A pre-hearing conference in this matter will be scheduled as ordered.

II. ORDER

A. It Is Ordered That:

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

DATE: February 11, 2014
TIME: 9:00 a.m.
PLACE: Hearing Room
Colorado Public Utilities Commission
1560 Broadway, Suite 250
Denver, Colorado

2. Yishak Tesfaye, doing business as Pioneer Transportation, is authorized to proceed with Mr. Yishak Tesfaye as its non-attorney representative in this matter. Mr. Yishak Tesfaye is the only non-attorney who is authorized to represent Yishak Tesfaye, doing business as Pioneer Transportation, in this Proceeding.

3. The Parties shall be held to the advisements in this Decision.

4. This Interim Decision is effective immediately.

(S E A L)



ATTEST: A TRUE COPY

A handwritten signature in cursive script that reads "Doug Dean".

Doug Dean,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

ROBERT I. GARVEY

Administrative Law Judge