

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 13A-1243BP

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

**RECOMMENDED DECISION OF
ADMINISTRATIVE LAW JUDGE
ROBERT I. GARVEY
DISMISSING INTERVENTION; VACATING
PREHEARING CONFERENCE; GRANTING
APPLICATION; AND CLOSING PROCEEDING**

Mailed Date: January 31, 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)

5. By Interim Decision No. R14-0051-I, issued January 15, 2014, a prehearing conference was scheduled for February 11, 2014.

6. On January 30, 2014, Metro Taxi filed its Motion for Withdrawal of Intervention (Motion). In its Motion, Metro Taxi states that upon conversations with the Applicant it no longer wishes to contest the application.

7. Good cause is found to grant the Motion. Metro Taxi shall be allowed to withdraw from the proceeding.

8. Withdrawal of the intervention and dismissal of the Intervenor leaves the Application, as amended, uncontested. Pursuant to § 40-6-109(5), C.R.S., and Rule 1403 of the Rules of Practice and Procedure, 4 *Code of Colorado Regulations* (CCR) 723-1, the uncontested application may be processed under the modified procedure, without a formal hearing.

9. In accordance with § 40-6-109, C.R.S., the ALJ now transmits to the Commission the record in this proceeding along with a written recommended decision.

II. FINDINGS AND CONCLUSIONS

10. Applicant is a sole proprietor/individual and has provided an affidavit of eligibility.

11. Applicant requests authority to operate as a contract carrier. By the Application, Pioneer, seeks authority to operate as a contract carrier by motor vehicle for hire:

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.

12. The verified Application establishes that Applicant is familiar with the Rules Regulating Transportation by Motor Vehicle, 4 CCR 723-6, and agrees to be bound by, and to comply with, those rules. The verified Application and its supporting documentation establish that Applicant has sufficient equipment with which to render the proposed service and is financially fit to conduct operations under the authority requested. In addition, the verified Application establishes that the service proposed is specialized and tailored to meet the customer's distinct needs. Finally, review of the verified Application indicates a need for the proposed service. Therefore, because the Applicant is fit, financially and otherwise, to perform the proposed service and because the other prerequisites have been met, the permit should be granted.

13. In accordance with § 40-6-109, C.R.S., the ALJ recommends that the Commission enter the following order.

III. ORDER

A. The Commission Orders That:

1. The Motion for Withdrawal of Intervention filed by Metro Taxi and/or Taxis Fiesta and/or South Suburban Taxi on January 30, 2014, is granted.

2. The intervention filed by, MKBS, LLC doing business as Metro Taxi and/or Taxis Fiesta and/or South Suburban Taxi is withdrawn and it is dismissed from the proceeding.

3. The prehearing conference scheduled for February 11, 2014 is vacated.

4. The Application to Operate as a Contract Carrier of Passengers by Motor Vehicle filed by, Yishak Tesfaye, doing business as Pioneer Transportation is granted.

5. Yishak Tesfaye, doing business as Pioneer Transportation, is granted authority to operate as a contract carrier by motor vehicle for hire 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.

6. Yishak Tesfaye, doing business as Pioneer Transportation, shall operate in accordance with all applicable Colorado laws and Commission rules. All operations under the permit granted shall be strictly contract carrier operations.

7. Yishak Tesfaye, doing business as Pioneer Transportation, shall not commence operation until it has complied with the requirements of Colorado laws and Commission rules, including without limitation:

- (a) causing proof of insurance (Form E or self-insurance) or surety bond (Form G) coverage to be filed with the Commission;
- (b) paying to the Commission, the motor vehicle fee (\$5) for each vehicle to be operated under authority granted by the Commission, or in lieu thereof, paid the fee for such vehicle(s) pursuant to the Unified Carrier Registration Agreement;
- (c) having an effective tariff on file with the Commission. [Yishak Tesfaye doing business as Pioneer Transportation shall file an advice letter and tariff on not less than ten days' notice. The advice letter and tariff shall be filed as a new Advice Letter proceeding and shall comply with all applicable rules. In calculating the proposed effective date, the date received at the Commission is not included in the notice period and the entire notice period must expire prior to the effective date. (Additional tariff information can be found on the Commission's website at dora.colorado.gov/puc and by following the transportation common and contract carrier links to tariffs)]; and
- (d) paying the applicable issuance fee (\$5).

8. If Yishak Tesfaye, doing business as Pioneer Transportation, does not cause proof of insurance or surety bond to be filed, pay the appropriate motor vehicle fees, file an advice letter and proposed tariff, and pay the issuance fee within 60 days of the effective date of this Decision, then the grant of the Permit shall be void. For good cause shown, the Commission may grant additional time for compliance if the request for additional time is filed within 60 days of the effective date of this Decision.

9. The Commission will notify Yishak Tesfaye, doing business as Pioneer Transportation in writing when the Commission's records demonstrate compliance with ¶ 7.

10. Proceeding No. 13A-1243BP is closed.

11. 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.

12. As provided by § 40-6-106, 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 recommended 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 a basic finding 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.

13. If exceptions to this Recommended 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)



THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

ROBERT I. GARVEY

Administrative Law Judge

ATTEST: A TRUE COPY

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

Doug Dean,
Director