

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 13A-1143BP

IN THE MATTER OF THE APPLICATION OF COMMUNITY REACH CENTER, INC. FOR
A PERMIT TO OPERATE AS A CONTRACT CARRIER BY MOTOR VEHICLE FOR HIRE.

**RECOMMENDED DECISION OF
ADMINISTRATIVE LAW JUDGE
PAUL C. GOMEZ
APPROVING STIPULATION IMPOSING
RESTRICTIVE AMENDMENTS; GRANTING
WITHDRAWAL OF INTERVENTION; AND GRANTING
PERMANENT AUTHORITY TO OPERATE AS A
CONTRACT CARRIER WITH RESTRICTIVE
AMENDMENTS UNDER MODIFIED PROCEDURES**

Mailed Date: February 5, 2014

I. STATEMENT

1. On October 24, 2013, Community Reach Center, Inc. (Applicant) filed an Application for authority to operate as a contract carrier by motor vehicle for hire (Application). Applicant seeks to provide non-emergency Medicaid transportation service to clients of the Community Reach Center.

2. The Commission issued notice of the Application to all interested persons, firms, and corporations pursuant to § 40-6-108(2), C.R.S., on November 4, 2013 as follows:

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

passengers

between the following points:

8931 Huron Street, Thornton, Colorado 80260; 621 West 96th Ave., Thornton, Colorado 80260; 7595 Krameria Drive, Commerce City, Colorado 80022; 5831 East 74th Ave., Commerce City, Colorado 80022; 4371 East 72nd Ave, Commerce City, Colorado 80022; 1850 E. Egbert St., Brighton, Colorado 80601;

8384 Elati Street, Denver, Colorado 80221; 11285 Highline Drive, Northglenn, Colorado 80233; and 3031 W. 76th Ave., Westminster, Colorado 80030.

RESTRICTIONS: This application is restricted:

- (A) to providing non-emergency medical transportation (NEMT) services for the Colorado Department of Health Care Policy and Financing, 1570 Grant Street, Denver, CO 80203;
- (B) to providing transportation services to recipients of Medicaid; and,
- (C) to providing transportation services to clients of Community Reach Center.

3. Parties seeking to intervene in this proceeding had until December 4, 2013 in which to file pleadings seeking intervenor status. The sole intervenor in this proceeding was MKBS, LLC, doing business as Metro Taxi &/or Taxis Fiesta &/or South Suburban Taxi (Metro Taxi).

4. By Interim Decision No. R13-1600-I, a pre-hearing conference was scheduled for January 17, 2014. At the scheduled date and time, the pre-hearing conference was convened. Appearances were entered by Applicant and legal counsel for Metro Taxi. A procedural schedule was discussed and agreed to by the parties; however, before a procedural order was issued adopting the proposed procedural schedule, the parties filed a Stipulated Motion for Imposition of Restrictive Amendments and Conditional Withdrawal of Intervention (Motion) on January 22, 2014.

5. According to the Motion, Applicant and Metro Taxi have reached a settlement agreement in this matter. Metro Taxi agrees to withdraw its intervention if Applicant's authority is amended as follows:

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

passengers

between the following points:

8931 Huron Street, Thornton, Colorado 80260; 621 West 96th Avenue, Thornton, Colorado 80260; 7595 Krameria Drive, Commerce City, Colorado 80022; 5831 East 74th Avenue, Commerce City, Colorado 80022; 4371 East 72nd Avenue, Commerce City, Colorado 80022; 1850 E. Egbert Street, Brighton, Colorado 80601; 8384 Elati Street, Denver, Colorado 80030.

RESTRICTIONS: This application is restricted:

- (A) to providing non-emergency medical transportation (NEMT) services for the Colorado Department of Health Care Policy and Financing, 1570 Grant Street, Denver, CO 80203;
- (B) to providing transportation services to recipients of Medicaid;
- (C) against providing transportation to or from hotels or motels; and,
- (D) to providing transportation services to clients of Community Reach Center.

6. Metro Taxi states that if the proposed application as restrictively amended is approved, each party's interests will have been satisfied and the intervention may be deemed withdrawn in this proceeding.

7. In accordance with § 40-6-109, C.R.S., the Administrative Law Judge now transmits to the Commission, the record in this proceeding along with a written Recommended Decision.

II. FINDINGS AND CONCLUSIONS

8. A proposed restrictive amendment to an application for authority to operate as a contract carrier or common carrier by motor vehicle for hire must be restrictive in nature, clear and understandable, and administratively enforceable. The proposed restriction and authority must be unambiguous and must be contained entirely within the authority granted.

9. The restrictive amendments proposed by Applicant and Metro Taxi are generally clear, unambiguous, and capable of enforcement. Therefore, it is found that the proposed contract carrier authority and restrictions contained in the stipulation filed on January 22, 2014 will not hamper the ability of the Applicant to provide the proposed contract carrier service. The proposed restrictive amendments to the contract carrier Application are restrictive in nature and capable of enforcement. The restrictive language achieves the purposes sought by Metro Taxi and Applicant. It provides protection to the incumbent's authorities while allowing Applicant to provide the substance of the service it seeks. As a result, the restrictive amendments which restrict Applicant's proposed authority as indicated above will be accepted.

10. The intervention of Metro Taxi will therefore be deemed withdrawn.

11. Since the Application as amended is now unopposed, the matter will be considered pursuant to the Commission's modified procedure, § 40-6-109(5), C.R.S., and the Commission's Rules of Practice and Procedure, 4 *Code of Colorado Regulations* (CCR) 723-1-1403.

12. The Application establishes that Applicant is familiar with the Rules Regulating Transportation by Motor Vehicle, 4 CCR 723-6, and agrees to comply with those Rules to the extent applicable to Applicant.

13. Additionally, the information provided by Applicant provides that Applicant possesses sufficient equipment to provide the proposed service and is financially viable to conduct operations under the authority requested. The Application and the supporting information attached demonstrate that need exists for the proposed service.

14. It is found that Applicant is fit to provide the proposed transportation service as restrictively amended and the Application with the proposed restrictive amendments is reasonable, in the public interest, and should be granted.

15. Pursuant to § 40-6-109, C.R.S., it is recommended that the Commission enter the following order.

III. ORDER

A. The Commission Orders That:

1. The Stipulated Motion for Imposition of Restrictive Amendments and Conditional Withdrawal of Intervention filed by MKBS, LLC, doing business as Metro Taxi and/or Taxis Fiesta and/or South Suburban Taxi and Community Reach Center, Inc. is granted.

2. The Application as amended and the amended restrictions to the Application of Community Reach Center, Inc. are granted consistent with the discussion above.

3. The intervention of MKBS, LLC, doing business as Metro Taxi and/or Taxis Fiesta and/or South Suburban Taxi is deemed withdrawn.

4. Community Reach Center, Inc. is granted a permit to operate as a contract carrier by motor vehicle for hire

for the transportation of passengers

between the following points:

8931 Huron Street, Thornton, Colorado 80260; 621 West 96th Avenue, Thornton, Colorado 80260; 7595 Krameria Drive, Commerce City, Colorado 80022; 5831 East 74th Avenue, Commerce City, Colorado 80022; 4371 East 72nd Avenue, Commerce City, Colorado 80022; 1850 E. Egbert Street, Brighton, Colorado 80601; 8384 Elati Street, Denver, Colorado 80030

RESTRICTIONS: This application is restricted:

- (A) to providing non-emergency medical transportation (NEMT) services for the Colorado Department of Health Care Policy and Financing, 1570 Grant Street, Denver, CO 80203;
- (B) to providing transportation services to recipients of Medicaid;
- (C) against providing transportation to or from hotels or motels; and,
- (D) to providing transportation services to clients of Community Reach Center.

5. The authority granted in Ordering Paragraph No. 4 is conditioned upon Community Reach Center, Inc. meeting the requirements contained in this Order and the authority is not effective until these requirements have been met.

6. Community Reach Center, Inc. shall not commence operations until it has complied with the requirements of Colorado law and Commission regulations, 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. Community Reach Center, Inc. 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).

7. If Community Reach Center, Inc., does not comply with the requirements of Ordering Paragraph No. 6, above, within 60 days of the effective date of this Decision, then Ordering Paragraphs No. 4 and No. 6, above, shall be void. On good cause shown by an appropriate and timely filing made in this Proceeding, the Commission may grant Community Reach Center, Inc., additional time within which to comply with the requirements of Ordering Paragraph No. 6, above.

8. The right of Applicant to operate shall depend upon Applicant's compliance with all present and future laws and regulations of the Commission.

9. The Commission will notify Community Reach Center, Inc. in writing when the Commission's records demonstrate compliance with Ordering Paragraph 6.

10. 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.

11. 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.

12. 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

PAUL C. GOMEZ

Administrative Law Judge