

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 13A-0962CP

IN THE MATTER OF THE APPLICATION OF 303 PARTYBUS, LLC 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
MELODY MIRBABA
REQUIRING APPLICANT TO MAKE FILING**

Mailed Date: February 14, 2014

I. STATEMENT, FINDINGS, AND CONCLUSIONS

1. On September 4, 2013, 303 Partybus LLC (Applicant), filed an Application for a Certificate of Public Convenience and Necessity to Operate as a Common Carrier by Motor Vehicle for Hire (Application).

2. The Commission gave notice of the Application on September 9, 2013. As originally noticed, the Application sought:

Authority to operate as a common carrier by motor vehicle for hire for the transportation of

passengers in call-and-demand shuttle and charter service

between 6232 Beach Street, Denver, Colorado and the following venues:

Red Rocks Amphitheater, 18300 West Alameda Parkway, Golden, Colorado 80401;

1st Bank Center, 11450 Broomfield Lane, Broomfield, Colorado 80021;

Sports Authority at Mile High Stadium, 1701 Bryant Street, Denver, Colorado 80204;

Coors Field, 2001 Blake Street, Denver Colorado 80205;

Ogden Theater, 935 East Colfax Avenue, Denver, Colorado 80218;

Fiddlers Green, 6230 Greenwood Plaza Boulevard, Englewood, Colorado 80111;

Pepsi Center, 1000 Chopper Circle, Denver, Colorado 80204;

Dicks' Sporting Goods Park, 6000 Victoria Way, Commerce City, Colorado 80022;

Bluebird Theater, 3317 East Colfax Avenue, Denver, Colorado 80206.

RESTRICTIONS. This application is restricted:

- (a) to the use of one vehicle;
- (b) to the provision of service to no less than 20 passengers at a time;
- (c) to the use of a vehicle with a maximum capacity of 44 passengers; and,
- (d) to trips beginning and ending at 6232 Beach Street, Denver, Colorado.

3. MKBS LLC, doing business as Metro Taxi, Taxis Fiesta, South Suburban Taxi and Northwest Suburban Taxi (Metro), Colorado Cab Company LLC, doing business as Denver Yellow Cab (Colorado Cab), and SuperShuttle International Denver, Inc. (SuperShuttle) have timely intervened of right in this proceeding.

4. During the Commission's weekly meeting held October 16, 2013, the Commission deemed the Application complete and referred it to an administrative law judge (ALJ) for disposition.

5. On January 3, 2014, Colorado Cab filed a "Stipulation, Motion for Approval of Restrictive Amendments and Conditional Withdrawal of Interventions" (Stipulation). The Stipulation was executed by Colorado Cab, Applicant, and SuperShuttle.

6. Later that same day, Metro filed a "Motion for Conditional Withdrawal of Intervention".

7. On January 17, 2014, the ALJ held a hearing regarding the language of the proposed authority. Decision No. R14-0020-I. Applicant and counsel, Mr. Knute Brody, appeared at the hearing. Metro appeared through counsel, Ms. Cesilie Garles; Colorado Cab and

SuperShuttle appeared through counsel, Mr. Mark Valentine. At the hearing, the parties discussed the issues identified by Decision No. R14-0020-I regarding the proposed authority. Applicant agreed to amend the Application to address those issues.

8. By Decision R13-0074-I issued January 17, 2014, the ALJ accepted the proposed amendments to the Application, as discussed at the hearing, and in the Stipulation executed by Colorado Cab, Applicant, and SuperShuttle.

9. In particular, the Application was amended to read (in its entirety), as follows:

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

passengers in call-and-demand shuttle and charter service

between 6232 Beach Street, Denver, Colorado and the following venues:

Red Rocks Amphitheater, 18300 West Alameda Parkway, Golden, Colorado 80401;

1st Bank Center, 11450 Broomfield Lane, Broomfield, Colorado 80021;

Sports Authority at Mile High Stadium, 1701 Bryant Street, Denver, Colorado 80204;

Coors Field, 2001 Blake Street, Denver Colorado 80205;

Ogden Theater, 935 East Colfax Avenue, Denver, Colorado 80218;

Fiddlers Green, 6230 Greenwood Plaza Boulevard, Englewood, Colorado 80111;

Pepsi Center, 1000 Chopper Circle, Denver, Colorado 80204;

Dicks' Sporting Goods Park, 6000 Victoria Way, Commerce City, Colorado 80022;

Bluebird Theater, 3317 East Colfax Avenue, Denver, Colorado 80206.

RESTRICTIONS. This application is restricted:

(a) to the use of one vehicle;

(b) to the use of a vehicle with a maximum capacity of 44 passengers;

- (c) to round-trips originating and terminating at 6232 Beach Street, Denver, Colorado that may include stops only at the addresses identified herein; and
- (d) against service to or from hotels, motels, or airports.

10. As required by the same Decision, the Application was re-noticed to the public with the amendments on January 27, 2014.

11. On February 10, 2014, Applicant apparently paper-filed a supplement to its Application, attached as Appendix A.¹ The filing does not include a signature of the party who submitted it. Thus, it is not entirely clear who submitted the filing. And, in any event, Applicant is represented by counsel in this proceeding. Applicant's counsel's name does not appear on the filing.

12. The Supplement appears to be a proposed amendment to the authority sought by the Application. For example, the Supplement includes language for the proposed authority, but that language is different from the authority proposed by the Application as amended by Decision R13-0074-I. In particular, the Supplement describes the proposed authority as follows:

transportation of
passengers in call and demand charter/shuttle service
between
6232 Beach Street Denver, CO and all points within a 1 mile radius of:
Red Rocks Amphitheater in Morrison, CO;
Fiddlers Green in Englewood, CO;
1st Bank Center, Broomfield, CO;
Boulder Theater in Boulder, CO;
Pepsi Center in Denver, CO;

¹ Although the Supplement was paper-filed on February 10, 2014, it was put into the electronic record until February 14, 2014. The ALJ only became aware of it when it became part of the electronic record in this proceeding.

Coors Field in Denver,
Ogden Theater in Denver, CO; and
Beta Nightclub in Denver, CO

RESTRICTIONS:

- (1) To the issue of one vehicle;
- (2) To the use of a vehicle with a maximum capacity of 44 passengers at one time;
- (3) To trips beginning and ending at 6232 Beach Street, Denver, CO; and
- (4) Against the use of service to the airport.

13. This language does not include a prior restriction to the authority, that is, that Applicant be restricted against providing service to and from hotels, motels, and airports. It also adds an additional venue, the Beta Night Club. It further expands the current proposed authority to include pick-up and drop-off of passengers within a “1 mile radius” of any of the listed destinations. Given all of this, if this filing is to be taken as a proposed amendment to the authority, it would broaden the proposed authority.

14. However, because Applicant’s counsel did not submit the supplement and the supplement is unsigned, the ALJ will not treat the filing as a request to amend the Application at this time.

15. If Applicant seeks to amend the application as described in the filing, Applicant must, through counsel, make a filing that plainly states the exact language of the authority that Applicant seeks. If the proposed authority again broadens the authority currently sought by the amended Application as set forth in Decision No. R13-0074-I, the ALJ will order that it again be re-noticed to the public. In any event, Applicant, through counsel, must make a filing clarifying the meaning of the referenced supplemental filing, and whether Applicant seeks any relief on the basis of that filing.

II. ORDER**A. It Is Ordered That:**

1. **On or by noon on February 21, 2014**, Applicant 303 Partybus LLC, through counsel, must make a filing which clarifies the meaning of the supplemental filing which is attached as Appendix A to this Decision. The filing must state whether Applicant seeks any relief on the basis of that filing, and if so, must state the relief Applicant seeks. If Applicant seeks to amend the Application, Applicant's filing must provide the exact language of the authority that Applicant seeks, including any amendments.

2. This 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

MELODY MIRBABA

Administrative Law Judge