

Decision No. R14-0305-I

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.

**INTERIM DECISION OF
ADMINISTRATIVE LAW JUDGE
MELODY MIRBABA
ACKNOWLEDGING WAIVER OF STATUTORY
DEADLINE, CONTINUING AND RESCHEDULING
HEARING, AND ESTABLISHING DEADLINES
FOR SUPPLEMENTAL DISCLOSURES**

Mailed Date: March 20, 2014

I. STATEMENT, FINDINGS, AND CONCLUSIONS

1. Only those portions of the procedural history necessary to understand this Decision are included.

2. On November 1, 2013, High Country Shuttle Inc. (Applicant), filed the above-captioned application.

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

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

5. 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.

6. On February 19, 2014, the matter was scheduled for a hearing on the merits of the Application for April 3 and 4, 2014 at the Commission's office in Denver, Colorado. Decision No. R14-0187-I.

7. On March 7, 2014, Applicant filed a Motion seeking to move the hearing location to Georgetown, Colorado. Interveners filed an objection to the Motion that same day.

8. To resolve the Applicant's Motion in an expedited manner, the ALJ scheduled a telephone hearing regarding the Motion for March 13, 2014. Decision No. R14-0274-I.

9. At the designated date and time the ALJ convened the telephone hearing. Mr. Imre Zelizi appeared on behalf of Applicant. Mr. Charles Kimball appeared on behalf of interveners.

10. At the hearing, the parties discussed their positions on Applicant's Motion. Applicant explained that if the hearing were held in Georgetown, that he may have at least nine witnesses present to testify on Applicant's behalf. However, if the hearing is held elsewhere, those witnesses will not be available to testify. Applicant urged that the hearing be moved to Georgetown so that the witnesses may be available to testify.

11. Given Applicant's statements regarding witnesses, the ALJ raised questions concerning Applicant's disclosures of witnesses and exhibits, filed on March 7, 2014. The disclosures essentially are statements by a number of individuals. Applicant's representative explained that he wished for those persons to testify on Applicant's behalf. Applicant did not file witness and exhibit lists, as required by Decision No. R14-0187-I. The ALJ explained to Applicant's representative that Applicant was required to file a list of witnesses, with a description of their testimony and their last known address and telephone number. Applicant's representative also stated that he had additional documents he wishes for the ALJ to consider in

support of the Application, which were not filed on March 7, 2014. Applicant's representative was warned that he must disclose those documents as required by this Decision for the documents to be considered.

12. During the hearing, interveners continued to object to moving the location of the hearing on such short notice.

13. The ALJ informed the parties that the hearing could not be held in Georgetown on the dates it is currently scheduled for (April 3 and 4), as the ALJ does not have a location in Georgetown for those dates.

14. Applicant waived the 210-day deadline for a Commission decision to issue pursuant to § 40-6-109.5(3), C.R.S., during the hearing. This Decision acknowledges that waiver.

15. In light of Applicant's waiver of the 210-day deadline, the ALJ asked the parties if they object to continuing the hearing to a future date, so that it may be rescheduled in Georgetown. Applicant did not object. Intervenors asked that they be given until March 17, 2014 to file an objection, if they have any. The ALJ granted this request, but also informed intervenors that there is no need to make any filing if they do not object. Intervenors did not make a filing objecting to a continuance. The ALJ construes intervenors' silence to mean they do not object to continuing the hearing so it may be rescheduled in Georgetown.

16. For good cause shown, and because there is no objection, the ALJ will continue the April 3 and 4, 2014 hearing. The hearing will be held in Georgetown on June 24 and 25, 2014, as detailed below.

17. **Applicant is again put on notice** that it carries the burden of proof to establish that its authority should be extended as requested by the Application.

18. At the hearing on the Application, Applicant will first present its evidence, including any witness that will testify for Applicant, and any documents that Applicant wishes to be considered in support of its Application. Interveners will have an opportunity to examine any witness that testifies for Applicant. After Applicant has completed presenting its evidence, interveners will have an opportunity to present witnesses and documents in support of their objection to the Application. The parties will then be given an opportunity to make closing remarks.

19. Given the timeframe for the new hearing date, the ALJ will permit the parties an additional opportunity to make supplemental disclosures of witnesses and exhibits to be presented at the hearing.

20. An exhibit is any document or other tangible item the party wishes the ALJ to consider in reaching a decision in this matter.

21. As referenced in this Decision, serving a party with any document (*e.g.*, witness and exhibit lists and exhibits) means that the party is required to give the document to all other parties to the proceeding. Service may be accomplished by United States Mail, or through the Commission's E-filing system, if the party being served is registered with the E-filing system.

22. All parties are advised that this proceeding is governed by the Rules of Practice and Procedure found at 4 *Code of Colorado Regulations* (CCR) 723-1, Part 1, the Rules Regulating Transportation by Motor Vehicle found at 4 CCR 723-6, Part 6, and the Colorado Rules of Evidence applicable in civil non-jury cases in the district courts. The Rules of Practice and Procedure and the Rules Regulating Transportation by Motor Vehicle are available on the

Commission's website at www.dora.colorado.gov/puc and in hard copy from the Commission.

The Colorado Rules of Evidence are available at the following link:

<http://www.lexisnexis.com/hottopics/Colorado/> (go to "Colorado Court Rules").

23. Non-attorneys will be held to the same standards as attorneys.

II. ORDER

A. It Is Ordered That:

1. The hearing scheduled in this proceeding for April 3 and 4, 2014 is continued.

No hearing shall take place on those dates.

2. A hearing on the merits of High Country Shuttle Inc.'s (Applicant) Application to Extend Operations Under Certificate of Public Convenience and Necessity No. 55806 is scheduled as follows:

DATES: June 24 and 25, 2014
TIME: 10:00 a.m. each day
PLACE: Clear Creek County Courthouse
Courtroom for the District Court
405 Argentine Street
Georgetown, Colorado

3. At the above date, time, and place you will be given the opportunity to be heard if you so desire.

4. Should Applicant wish to present exhibits and witnesses in addition to those it has already filed, Applicant shall file and serve amended exhibit and witness lists and exhibits on or by 5:00 p.m. on May 27, 2014. The amended exhibit and witness lists must include a complete list of all exhibits and witnesses who may testify on Applicant's behalf, including any prior disclosures.

5. Should Colorado Coach Transportation LLC and MT Acquisitions LLC, doing business as Mountains Taxi (collectively, interveners) wish to present exhibits and witnesses in addition to those it has already filed, interveners shall file and serve amended exhibit and witness lists and exhibits **on or by 5:00 p.m. on June 3, 2014**. The amended exhibit and witness lists must include a complete list of all exhibits and witnesses who may testify on interveners' behalf, including any prior disclosures.

6. Witness lists shall include a description of the witnesses' anticipated testimony and the witnesses' last known address and telephone number.

7. All exhibits shall be identified by sequential numbers (*e.g.*, Exhibit 1, Exhibit 2, Exhibit 3).

8. Exhibits shall include the following information: exhibit number, proceeding number, name of the witness who will testify to the exhibit's foundation, and the date of the hearing. The parties must have all their exhibits stamped prior to the time the hearing is scheduled to begin.

9. At the hearing, the parties shall bring an original and four copies of each pre-marked exhibit they intend to introduce, along with a completed exhibit list in the format set forth in Appendix A to this Decision.

10. If any exhibit is longer than two pages, the party offering the exhibit shall sequentially number *each page* of the exhibit.

11. This Decision is effective immediately.

(S E A L)



THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

MELODY MIRBABA

Administrative Law Judge

ATTEST: A TRUE COPY

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

Doug Dean,
Director