

Decision No. R14-0441-I

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO**

PROCEEDING NO. 13A-1397CP-EXTENSION

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IN THE MATTER OF THE APPLICATION OF MAGIC BUS, LLC, DOING BUSINESS  
AS MAGIC BUS TOURS, FOR AUTHORITY TO EXTEND OPERATIONS UNDER  
CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY NO. 55833.

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**INTERIM DECISION OF  
ADMINISTRATIVE LAW JUDGE  
MANA L. JENNINGS-FADER  
CONCERNING MOTION FILED ON APRIL 18, 2014  
AND FILING MADE ON APRIL 23, 2014**

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Mailed Date: April 29, 2014

**I. STATEMENT**

1. On December 20, 2013, Magic Bus, LLC, doing business as Magic Bus Tours (Applicant), filed an Application for Permanent Authority to Extend Operations under Certificate of Public Convenience and Necessity PUC No. 55833 (Application). That filing commenced this Proceeding.

2. On January 13, 2014, the Commission issued its Notice of Application Filed (Notice) in this Proceeding (Notice at 3); established an intervention period; and established a procedural schedule. On February 20, 2014, Decision No. R14-0191-I vacated that procedural schedule.

3. On February 12, 2014, Shamrock Taxi of Ft. Collins, Inc., doing business as Yellow Cab of Northern Colorado and/or Yellow Cab NOCO (Shamrock Taxi or Intervenor), timely intervened as ofright. Shamrock Taxi opposes the Application.

4. Applicant and Intervenor, collectively, are the Parties. As authorized by Decision No. R14-0191-I, Applicant is represented by Michael Murphy, who is not an attorney.<sup>1</sup> Intervenor is represented by legal counsel.

5. On February 19, 2014, by Minute Order, the Commission referred this matter to an Administrative Law Judge (ALJ).

6. On February 19, 2014, by Minute Order, the Commission deemed the Application complete as of that date. Absent an enlargement of time by the Commission or Applicant's waiver of the statutory provision, a Commission decision on the Application should issue not later than September 17, 2014.

7. On March 6, 2014, by Decision No. R14-0237-I, the ALJ scheduled a June 4, 2014 evidentiary hearing in this Proceeding and established the procedural schedule for this Proceeding. As discussed in that Decision, the June 4, 2014 hearing date permits the Commission to issue its decision in this Proceeding by September 17, 2014.

8. Pursuant to the established procedural schedule, Applicant was to file its list of witnesses and complete copies of its exhibits not later than March 21, 2014. Applicant neither made the March 21, 2014 filing nor requested, prior to or on March 21, 2014, additional time within which to make that filing.

9. Pursuant to the established procedural schedule, Intervenor was to file its list of witnesses and complete copies of its exhibits not later than April 18, 2014. On April 18, 2014, in lieu of filing its list of witnesses and complete copies of its exhibits, Intervenor filed (in one document) a Motion *in Limine* and Motion to Dismiss (Intervenor Motion).

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<sup>1</sup> In that Interim Decision, the ALJ set out the conditions under which Mr. Murphy represents Applicant.

10. The 14-day response time to the Intervenor Motion has not expired.

11. On April 23, 2014, Applicant filed an untitled document (Applicant Filing) in which, among other things, Applicant “kindly requests an extension for the time allowed to submit an initial evidence and witness list due on March 21<sup>st</sup>.” Applicant Filing at 1.

12. There is no separate certificate of service attached to the Applicant Filing. Instead, in the first paragraph on 1, that filing states:

[o]n this Wednesday[,] April 23<sup>rd</sup> 2014 Magic Bus LLC serves to all concerned parties set up to receive E-filings in conjunction with [P]roceeding Number 13A-1397CP-EXT the following list of witnesses and exhibits it will offer in its direct case.

From this statement and given that the certificate of service generated by the Commission shows that Intervenor participates in the Commission’s E-Filings System, the ALJ deduces that the Applicant Filing was served on Intervenor on April 23, 2014.

13. The Applicant Filing appears to have been made in response to the Intervenor Motion, but this is simply the ALJ’s surmise because the Applicant Filing contains no mention of the Intervenor Motion. In any event, the Applicant Filing contains a motion for leave to file Applicant’s list of witnesses and exhibits out of time.

14. The 14-day response time to the request made in the Applicant Filing has not expired.

15. The ALJ will rule on the Intervenor Motion and on the request made in the Applicant Filing following the expiration of the response time to the request made in the Applicant Filing. That date is May 7, 2014.<sup>2</sup>

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<sup>2</sup> The ALJ notes that, if the request made in the Applicant Filing is granted, it *will* be necessary to modify the procedural schedule and *may* be necessary to reschedule the evidentiary hearing.

16. Rule 4 *Code of Colorado Regulations* (CCR) 723-1-1205<sup>3</sup> governs the form and content of filings made in a proceeding before the Commission and applies to this Proceeding. Applicant's Filing does not comply with many of the requirements set out in the cited Rule.

17. Applicant is reminded that its non-attorney representative, Mr. Michael Murphy, is bound by, and is held to, the same procedural and evidentiary rules as those to which attorneys are held. Decision No. R14-0191 at ¶ 19 and Ordering Paragraph No. 7. The ALJ requires Mr. Murphy to follow the requisite procedural and evidentiary rules. This includes, among other things, Rule 4 CCR 723-1-1205.

18. The Parties are reminded that, in Decision No. R14-0191-I, the ALJ advised the Parties that the ALJ holds the Parties to the requirements of the Rules of Practice and Procedure, Part 1 of 4 CCR 723.

## II. **ORDER**

### A. **It Is Ordered That:**

1. The Parties are held to the advisements in the Interim Decisions issued in this Proceeding.

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<sup>3</sup> This Rule is found in the Rules of Practice and Procedure, Part 1 of 4 *Code of Colorado Regulations* 723.

2. This Interim Decision is effective immediately.

(S E A L)



THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF COLORADO

MANA L. JENNINGS-FADER

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Administrative Law Judge

ATTEST: A TRUE COPY

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

Doug Dean,  
Director