

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 14A-0071BP

IN THE MATTER OF THE APPLICATION OF DIVERSIFIED TRANSPORTATION AND
HI GO TOWN CAR, LLC, FOR A PERMIT TO OPERATE AS A CONTRACT CARRIER BY
MOTOR VEHICLE FOR HIRE.

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

Mailed Date: May 2, 2014

I. STATEMENT

1. On January 16, 2014, Diversified Transportation and Hi Go Town Car, LLC (Applicant) filed an application for a permit to operate as a contract carrier by motor vehicle for hire (Application).

2. On January 27, 2014, the Commission issued notice of the Application 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 Adams, Arapahoe, Boulder, Denver, and Douglas, State of Colorado.

RESTRICTIONS: The application is restricted:

- (A) to providing Non-Medical Transportation (NMT) services for the Colorado Department of Health Care Policy and Financing, 1570 Grant Street, Denver, Colorado;

- (B) to the transportation of passengers who are recipients of Medicaid;
- (C) against providing service to or from hotels, motels, or airports;
- (D) against providing transportation to or from points in Douglas County south of a line beginning on the Douglas/Jefferson border to a point on the Douglas/Elbert border that is parallel to an east-west line drawn through Exit 172 on Interstate 25;and,
- (E) to the use of a maximum of two vehicles at any one time.

3. While MKBS, LLC, doing business as Metro Taxi &/or Taxi Fiesta &/or South Suburban Taxi &/or North West Suburban Taxi initially intervened in this proceeding, it subsequently withdrew its intervention. The sole intervenor in this matter is Colorado Cab Company LLC, doing business as Denver Yellow Cab and Boulder Yellow Cab (collectively, Colorado Cab).

4. On March 21, 2014, Applicant filed an amendment to its Application wherein he requests that Boulder County be eliminated from the proposed service territory. Applicant states that the revised service area should read, “transportation of passengers between all points in the Counties of Adams, Arapahoe, Denver, and Douglas.”

5. By Interim Decision No. R14-0385-I, issued April 10, 2014, a procedural schedule was adopted that, among other things, set an evidentiary hearing on the Application for May 5, 2014.

6. On May 1, 2014, Colorado Cab filed a Motion for Conditional Withdrawal of Intervention (Motion). According to the Motion, Colorado Cab represents that it will withdraw its intervention in this Application proceeding if the proposed restrictive amendment to the Application filed on March 21, 2014 is approved, as its interests will have been satisfied.

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 amendment proposed by Applicant is clear, unambiguous, and capable of enforcement. Therefore, it is found that the proposed contract carrier authority and restrictions as amended by the March 21, 2014 proposed restrictive amendment 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. As a result, the restrictive amendment which restricts Applicant's proposed authority as indicated above will be accepted.

10. As restrictively amended, the proposed authority now reads 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 Adams, Arapahoe, Denver, and Douglas, State of Colorado.

RESTRICTIONS: The application is restricted:

- (A) to providing Non-Medical Transportation (NMT) services for the Colorado Department of Health Care Policy and Financing, 1570 Grant Street, Denver, Colorado;
- (B) to the transportation of passengers who are recipients of Medicaid;

- (C) against providing service to or from hotels, motels, or airports;
- (D) against providing transportation to or from points in Douglas County south of a line beginning on the Douglas/Jefferson border to a point on the Douglas/Elbert border that is parallel to an east-west line drawn through Exit 172 on Interstate 25; and,
- (E) to the use of a maximum of two vehicles at any one time.

11. The intervention of Colorado Cab will be deemed withdrawn.

12. 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.

13. 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.

14. 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 a need exists for the proposed service.

15. 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.

16. 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 restrictive amendment filed on March 21, 2014 by Diversified Transportation and Hi Go Town Car, LLC is granted.

2. The Motion for Conditional Withdrawal of Intervention filed by Colorado Cab Company LLC, doing business as Denver Yellow Cab and Boulder Yellow Cab on May 1, 2014 is granted.

3. The hearing scheduled for May 5, 2014 is vacated.

4. Diversified Transportation and Hi Go Town Car, LLC is granted a permit to operate as a contract carrier by motor vehicle for hire

For the transportation of
passengers

between all points in the Counties of Adams, Arapahoe, Denver, and Douglas,
State of Colorado.

RESTRICTIONS: The application is restricted:

- (A) to providing Non-Medical Transportation (NMT) services for the Colorado Department of Health Care Policy and Financing, 1570 Grant Street, Denver, Colorado;
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- (E) to the use of a maximum of two vehicles at any one time.

5. The authority granted in Ordering Paragraph No. 3 is conditioned upon Diversified Transportation and Hi Go Town Car, LLC meeting the requirements contained in this Decision and the authority is not effective until these requirements have been met.

6. Diversified Transportation and Hi Go Town Car, LLC 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. Diversified Transportation and Hi Go Town Car, LLC 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 Diversified Transportation and Hi Go Town Car, LLC, does not comply with the requirements of Paragraph 5 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.

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 Diversified Transportation and Hi Go Town Car, LLC in writing when the Commission's records demonstrate compliance with Ordering Paragraph 5.

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)



THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

PAUL C. GOMEZ

Administrative Law Judge

ATTEST: A TRUE COPY

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

Doug Dean,
Director