

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 14A-0035CP

IN THE MATTER OF THE APPLICATION OF GC OUTDOOR, 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
MANA L. JENNINGS-FADER
VACATING EVIDENTIARY HEARING, DENYING
REQUEST TO SHORTEN RESPONSE TIME, AND
CONCERNING MOTION FILED ON MAY 21, 2014**

Mailed Date: May 27, 2014

I. STATEMENT

1. On January 8, 2014, GC Outdoor, LLC (GCO or Applicant), filed an Application for a Certificate of Public Convenience and Necessity to Operate as a Common Carrier by Motor Vehicle for Hire (Application). That filing commenced this Proceeding.

2. On January 13, 2014, the Commission issued its Notice of Application Filed in this Proceeding; established an intervention period; and established a procedural schedule. On February 20, 2014, Decision No. R14-0192-I vacated that procedural schedule.

3. The following entities intervened as of right and are parties in this Proceeding: Colorado Cab Company, LLC, doing business as Denver Yellow Cab (Denver Yellow Cab); and MKBS, LLC, doing business as Metro Taxi and/or Taxis Fiesta and/or South Suburban Taxi and/or Northwest Suburban Taxi (Metro Taxi). Each opposes the Application.

4. Denver Yellow Cab and Metro Taxi, collectively, are the Intervenors. Applicant and Intervenors, collectively, are the Parties. As authorized by Decision No. R14-0192-I,

Applicant is represented by Mr. Gregory Carpenter, who is not an attorney. Each 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 17, 2014, by Decision No. R14-0291-I, the ALJ scheduled a June 6, 2014 evidentiary hearing in this Proceeding and established the procedural schedule for this Proceeding.

8. Pursuant to the established procedural schedule, GCO was to file its list of witnesses and complete copies of its exhibits not later than March 28, 2014. GCO neither made the March 28, 2014 filing nor requested, prior to or on March 28, 2014, additional time within which to make that filing.

9. Pursuant to the established procedural schedule, each intervenor was to file its list of witnesses and complete copies of its exhibits not later than April 25, 2014. On April 23, 2014, Metro Taxi made its filing. On April 25, 2014, Denver Yellow Cab made its filing.

10. On May 21, 2014, Metro Taxi filed a Motion to Dismiss the Application (Metro Taxi Motion). Rule 4 *Code of Colorado Regulations* (CCR) 723-1-1400¹ provides for a 14-day response period; unless shortened, the response period will expire on June 4, 2014.

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

11. By this Interim Decision, the ALJ will vacate the June 6, 2014 evidentiary hearing. The ALJ finds that, in the event that the Metro Taxi Motion is denied, there is insufficient time for Intervenors to prepare for hearing given that Applicant has not yet filed its list of witnesses and complete copies of its exhibits.

12. In its motion, Metro Taxi requests a shortened response time due to the approaching evidentiary hearing date. Given that the evidentiary hearing is vacated, the ALJ will deny the request to shorten response time.

13. Applicant is reminded that its non-attorney representative, Mr. Gregory Carpenter, is bound by, and is held to, the same procedural and evidentiary rules as those to which attorneys are held. Decision No. R14-0192-I at ¶ 20 and Ordering Paragraph No. 12. The ALJ requires Mr. Carpenter to follow the requisite procedural and evidentiary rules. This includes, among other things, Rule 4 CCR 723-1-1400.

14. Rule 4 CCR 723-1-1400 governs motions. Rule 4 CCR 723-1-1400(d) provides: “The Commission may deem a failure to file a response as a confession of the motion.” **Applicant is advised, and is on notice, that** if it fails to file a response to the Metro Taxi Motion, the ALJ will grant the motion as unopposed and will dismiss the Application.

15. The Parties are reminded that, in Decision No. R14-0192-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 evidentiary hearing in this Proceeding scheduled for June 6, 2014 is vacated.

2. Response to the Motion to Dismiss the Application must be filed not later than June 4, 2014.
3. The request to shorten response time to the Motion to Dismiss the Application is denied.
4. Parties are held to the advisements in the Interim Decisions issued in this Proceeding.
5. This Interim 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

MANA L. JENNINGS-FADER

Administrative Law Judge