

Decision No. R14-0860-I

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 14A-0468BP

IN THE MATTER OF THE APPLICATION OF RIDE 4 MED INC. FOR A PERMIT
TO OPERATE AS A CONTRACT CARRIER BY MOTOR VEHICLE FOR HIRE.

**INTERIM DECISION OF
ADMINISTRATIVE LAW JUDGE
MANA L. JENNINGS-FADER
SCHEDULING EVIDENTIARY HEARING,
ESTABLISHING PROCEDURAL SCHEDULE,
SHORTENING RESPONSE TIME TO
MOTIONS PERTAINING TO DISCOVERY,
AND CONTAINING ADVISEMENTS**

Mailed Date: July 21, 2014

I. STATEMENT

1. On May 14, 2014, Ride 4 Med Inc. (Ride or Applicant) filed a verified Application for New Permanent Authority to Operate as a Contract Carrier of Passengers by Motor Vehicle for Hire (Application). That filing commenced this Proceeding.

2. On May 19, 2014, the Commission issued its Notice of Application Filed (Notice) in this Proceeding (Notice at 7); established an intervention period; and established a procedural schedule. On June 26, 2014, Decision No. R14-0719-I vacated the procedural schedule.

3. The following intervened as of right: Colorado Cab Company LLC, doing business as Denver Yellow Cab and Boulder Yellow Cab (Colorado Cab); Colorado Springs Transportation, LLC (CST); MKBS, LLC, doing business as Metro Taxi (Metro Taxi); and Shamrock Taxi of Fort Collins, Inc. (Shamrock). Each opposes the Application.

4. Colorado Cab, CST, Metro Taxi, and Shamrock, collectively, are the Intervenors. Applicant and Intervenors, collectively, are the Parties. Pursuant to Decision No. R14-0719-I, Applicant is represented by an individual who is not an attorney.¹ Each intervenor is represented by legal counsel.

5. On June 25, 2014, by Minute Order, the Commission referred this matter to an Administrative Law Judge (ALJ).

6. On June 25, 2014, by Minute Order, the Commission deemed the Application complete as of that date. Pursuant to § 40-6-109.5(2), C.R.S., and absent an enlargement of time by the Commission or Applicant's waiver of the statutory provision, a Commission decision on the Application should issue no later than January 21, 2015.

7. In Decision No. R14-0719-I, the ALJ ordered Ride to consult with Intervenors and to make, not later than July 18, 2014, a filing that: (a) contained a procedural schedule, including hearing date, that was satisfactory to all Parties; and (b) addressed the issues discussed in that Interim Decision.

8. On June 26, 2014, the Commission served, by first-class U.S. Mail, Decision No. R14-0719-I on Applicant at the Broomfield, Colorado mailing address stated in the Application. As of the date of this Interim Decision, Decision No. R14-0719-I has not been returned to the Commission as undeliverable. Applicant is presumed to have received Decision No. R14-0719-I and to have knowledge of the requirements in that Interim Decision.

¹ In Decision No. R14-0719-I at ¶ 22, the ALJ advised Applicant and its representative that Applicant's non-attorney representative is held, and will be held, to the same procedural and evidentiary rules and standards as those to which attorneys are held.

9. Review of the Commission file in this Proceeding establishes that, as of the date of this Interim Decision, Ride has not made the filing required by Decision No. R14-0719-I. Review of the Commission file in this Proceeding establishes that, as of the date of this Interim Decision, Ride has not requested additional time within which to comply with Decision No. R14-0719-I.

10. Applicant has not complied with the Decision No. R14-0719-I requirement that it make, not later than July 18, 2014, a filing that contains an agreed-upon procedural schedule and that addresses additional issues. This failure to comply is unexcused and unexplained.

11. In Decision No. R14-0719-I, the ALJ stated:

The Parties are advised, and are on notice, that if Applicant fails to make the July 18, 2014 filing regarding the proposed hearing date(s) and proposed procedural schedule to which the Parties agree, the ALJ will schedule the evidentiary hearing and will establish the procedural schedule without input from the Parties.

Decision No. R14-0719-I at ¶ 29 (bolding in original); *see also id.* at Ordering Paragraph No. 9 (same). Pursuant to that advisement and by this Interim Decision, the ALJ will schedule the evidentiary hearing; will establish the procedural schedule; and will address other issues without input from Applicant and Intervenors.

12. The ALJ will order the following procedural schedule, including hearing dates: (a) ~~not~~later than **August 22, 2014**, Applicant will file its list of witnesses and complete copies of the exhibits it will offer in its direct case; (b) ~~not~~later than **September 19, 2014**, each intervenor will file its list of witnesses and complete copies of the exhibits it will offer in its case; (c) ~~not~~ later than **October 3, 2014**, each party will file, if necessary to correct an error in the previous filing, a corrected list of witnesses and complete copies of corrected exhibits; (d) ~~not~~later than **October 17, 2014**, each party will file its prehearing motions, including motions *in limine* and

dispositive motions; (e) not later than **noon on October 31, 2014**, the Parties will file any stipulation or settlement agreement reached; (f) the evidentiary hearing will be held on **November 6 and 7, 2014**; and (g) the Parties may make oral closing statements at the conclusion of the hearing.

13. Each witness who will be called to testify (except a witness called in Applicant's rebuttal case) must be identified on the list of witnesses that ¶ 12 requires each party to file. The following information must be provided for each listed witness: (a) the name of the witness; (b) the address of the witness; (c) the business telephone number or daytime telephone number of the witness; and (d) a detailed summary of the testimony that the witness is expected to give.

14. **The Parties are advised, and are on notice, that** no person -- *including Mr. Hakop J. Torosyan* -- will be permitted to testify on behalf of a party (except in Applicant's rebuttal case) unless the person is identified on the list of witnesses filed in accordance with this Interim Decision.

15. Complete copies of all exhibits (except an exhibit offered in Applicant's rebuttal case or to be used in cross-examination) must be filed as required in ¶ 12.

16. **The Parties are advised, and are on notice, that** no document -- *including the Application and its attachments* -- will be admitted into evidence (except in Applicant's rebuttal case or when used in cross-examination) unless that document is filed in accordance with this Interim Decision.

17. Except as modified by this Interim Decision, Rule 4 *Code of Colorado Regulations* (CCR) 723-1-1405² will govern discovery.

² This Rule is found in the Rules of Practice and Procedure, Part 1 of 4 *Code of Colorado Regulations* 723.

18. Subject to rules governing access to information claimed to be confidential, discovery requests and responses to discovery will be served on all Parties.

19. Motions pertaining to discovery may be filed at any time. Unless otherwise ordered, responses to motions pertaining to discovery will be written and will be filed within *three business days of service of the motion*.³ If necessary, the ALJ will hold a hearing on a discovery-related motion as soon as practicable after the motion is filed.

20. Rules 4 CCR 723-1-1100 and 723-1-1101 will govern the treatment of information claimed to be confidential.

21. **The Parties are advised, and are on notice, that** it is the responsibility of each party to bring to the evidentiary hearing a sufficient number of copies of each document that it wishes to offer as an exhibit.⁴ **The Parties are advised, and are on notice, that** the fact that exhibits are prefiled in accordance with this Interim Decision does *not* alter the requirement set out in this paragraph.

22. **The Parties are advised, and are on notice that,** the Commission will *not* make copies of documents that are offered as exhibits.

³ By this Interim Decision, the ALJ will shorten response time with respect to discovery-related motions.

⁴ This means that, at the hearing, a party must have the number of copies of each document necessary to provide: (a) one to be marked and retained by the Commission as the hearing exhibit; (b) one to be given to each of the other parties; (c) one to be given to the ALJ; and (d) one to be retained by the party offering the exhibit.

II. ORDER

A. It Is Ordered That:

1. The evidentiary hearing in this Proceeding shall be held on the following dates, at the following times, and in the following location:

DATES: November 6 and 7, 2014

TIME: 9:00 a.m. each day

PLACE: Commission Hearing Room
1560 Broadway, Suite 250
Denver, Colorado

2. The following procedural schedule is adopted: (a) notlater than August 22, 2014, Applicant Ride 4 Med Inc. shall file its list of witnesses and complete copies of the exhibits it will offer in its direct case; (b) notlater than September 19,2014, each intervenor shall file its list of witnesses and complete copies of the exhibits it will offer in its case; (c) notlater than October 3,2014, each party shall file, if necessary to correct an error in the previous filing, a corrected list of witnesses and complete copies of corrected exhibits; (d) notlater than October 17,2014, each party shall file its prehearing motions; (e) notlater than noon on October 31,2014, the Parties shall file any stipulation or settlement agreement reached; and (f) the Parties may make oral closing statements at the conclusion of the hearing.

3. No person shall be permitted to testify on behalf of a party (except in Applicant's rebuttal case) unless the person is identified on the list of witnesses filed in accordance with this Interim Decision.

4. No document shall be admitted into evidence (except in Applicant's rebuttal case or when used in cross-examination) unless a complete copy of that document is filed in accordance with this Interim Decision.

5. Except as modified by this Interim Decision, Rule 4 *Code of Colorado Regulations* 723-1-1405 shall govern discovery.

6. Subject to rules governing access to information claimed to be confidential, discovery requests and responses to discovery shall be served on all Parties.

7. Response time to a motion pertaining to discovery is shortened to three business days from the date of service.

8. Rules 4 *Code of Colorado Regulations* 723-1-1100 and 723-1-1101 shall govern the treatment of information claimed to be confidential.

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

10. This Interim Decision is effective immediately.

(S E A L)



ATTEST: A TRUE COPY

Doug Dean,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

MANA L. JENNINGS-FADER

Administrative Law Judge