

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 14A-0479CP

IN THE MATTER OF THE APPLICATION OF STARRY NIGHTS 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
MELODY MIRBABA
REQUIRING TAZCO, INC., TO MAKE FILING**

Mailed Date: September 4, 2014

I. STATEMENT, FINDINGS, AND CONCLUSIONS

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

2. On May 14, 2014, Starry Nights LLC (Applicant) filed an Application for a Certificate of Public Convenience and Necessity to Operate as a Common Carrier by Motor Vehicle for Hire (Application). Applicant amended its Application on May 22, 2014 (amended Application).

3. The Commission provided public notice of the amended Application on June 2, 2014. As originally noticed, the amended Application seeks, “authority to operate as a common carrier by motor vehicle for hire for the transportation of passengers in call-and demand shuttle service and call-and-demand sightseeing service between all points within a 1.5 mile radius of the intersection of West 1st Street and Main Street in Palisade, Colorado.”

4. GISDHO Shuttle, Inc., doing business as American Spirit Shuttle (American Spirit) and Tazco, Inc., doing business as Sunshine Taxi (Sunshine) timely intervened of right objecting to the Application.

5. During the Commission's weekly meeting held July 9, 2014, the Commission deemed the Application complete and referred it to an administrative law judge (ALJ) for disposition.

6. On July 8, 2014, Applicant filed a second amendment to the Application. The second amendment seeks to remove the following language from the authority sought, "and call-and-demand sightseeing service." In other words, the amendment seeks to eliminate Applicant's original request for authority to operate in call-and-demand sightseeing service.

7. On July 9, 2014, American Spirit filed a "Motion for Acceptance of Amendment to Application and Withdrawal of Intervention" (Motion). The Motion sought the Commission to accept the second amendment to the Application, and if accepted, to withdraw American Spirit's intervention and objection to the Application.

8. By Decision No. R14-0884-I issued July 24, 2014, the ALJ accepted the proposed restrictive amendment and dismissed American Spirit as a party to this proceeding.

9. By Decision No. R14-0950-I issued August 5, 2014, the ALJ scheduled a hearing to take place in Grand Junction, Colorado, as well as procedural deadlines. The hearing is scheduled for October 21, 22, and 23, 2014.

10. On August 12, 2014, Applicant filed a document titled in the Commission's E-filing system as "Amendment 3- in compliance to Agreement with Sunshine Taxi, LLC for

Withdrawal of Intervention to Proceeding No. 14A-0479CP” (Third Amendment). The Third Amendment proposes that the Application be amended to seek the following:

For authority to operate as a common carrier by motor vehicle for hire for the transportation of

passengers in call-and-demand shuttle service

between all points within a 1.5 mile radius of the intersection of West 1st Street and Main Street in Palisade, Colorado.

RESTRICTION: This application is restricted:

Starry Nights will offer only Golf Cart Shuttle services.

11. Although the title of the document in E-filings indicates that Applicant submitted its Third Amendment pursuant to an agreement with Sunshine to withdraw its intervention, there is no agreement in the record indicating that Sunshine wishes to withdraw its intervention in this proceeding subject to approval of the Third Amendment.

12. And, the time to respond to the Third Amendment has expired. Rule 1400(b) of the Rules of Practice and Procedure, 4 *Code of Colorado Regulations* 723-1. Sunshine filed no response. Therefore, it can be assumed that Sunshine does not object to the proposed amendment in the Third Amendment.

13. However, before the ALJ rules on whether to grant the Third Amendment, the ALJ will require Sunshine to make a filing indicating whether it will withdraw its intervention in this proceeding if the Third Amendment is accepted.

II. ORDER

A. It Is Ordered That:

1. On or by 5:00 p.m. MST on September 11, 2014, Tazco, Inc., doing business as Sunshine Taxi shall make a filing indicating whether it will withdraw its intervention if the

administrative law judge accepts the amendments proposed by Applicant Starry Nights LLC's August 12, 2014 filing titled "Amendment 3- in compliance to Agreement with Sunshine Taxi, LLC for Withdrawal of Intervention to Proceeding No. 14A-0479CP" in the Commission's e-filing system.

2. 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