

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 14A-0581BP

IN THE MATTER OF THE APPLICATION OF OBJAY & OBKAY SERVICES LLP FOR A
PERMIT TO OPERATE AS A CONTRACT CARRIER BY MOTOR VEHICLE FOR HIRE.

**INTERIM DECISION OF
ADMINISTRATIVE LAW JUDGE
MELODY MIRBABA
SCHEDULING HEARING AND
ESTABLISHING DEADLINES**

Mailed Date: September 10, 2014

I. STATEMENT

1. On June 2, 2014, Objay and Obkay Services LLP (Applicant) filed an Application for a Permit to Operate as a Contract Carrier by Motor Vehicle for Hire (Application). Applicant filed an amendment to the Application on June 25, 2014.

2. The Commission provided public notice of the Application on July 14, 2014.

As noticed, the Application seeks:

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, Broomfield, Clear Creek, Denver, Douglas, and Jefferson, State of Colorado.

This application is restricted:

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

3. MKBS LLC, doing business as Metro Taxi, Colorado Springs Transportation LLC, doing business as Yellow Cab Company of Colorado Springs, and Colorado Cab Company

LLC, doing business as Denver Yellow Cab and Boulder Yellow Cab filed timely interventions of right objecting to the Application. The interventions warrant an evidentiary hearing on the Application.

4. During the Commission's weekly meeting held August 20, 2014, the Commission deemed the Application complete and referred it to an administrative law judge (ALJ) for disposition.

5. In anticipation of the hearing on the Application, the undersigned ALJ scheduled a prehearing conference in accordance with Rule 1409(a) of the Rules of Practice and Procedure, 4 *Code of Colorado Regulations* (CCR) 723-1 for September 9, 2014. Decision No. R14-1045-I issued August 26, 2014. All parties appeared at the prehearing conference.

6. At the prehearing conference, Mr. Olanrewaju Badmus and Mr. John Berko, non-attorneys, appeared for Applicant. Mr. Badmus and Mr. Berko are the sole owners of Applicant. They reiterated a request in the Application that they be permitted to represent Applicant. Based on the Application and information Mr. Badmus and Mr. Berko provided during the hearing, the ALJ finds that Applicant has met the requirements of Rule 1201(b), 4 CCR 723-1 and § 13-1-127, C.R.S., to be represented by non-attorneys in this proceeding. In particular, the ALJ finds that Applicant has provided satisfactory evidence that: it is a closely held entity with two owners, that the amount in controversy is less than \$15,000, and that Mr. Badmus and Mr. Berko have authority to represent Applicant in this proceeding. The ALJ will order that Applicant may be represented by Mr. Badmus and Mr. Berko in this proceeding.

7. Applicant is on notice that its non-attorney representatives will be bound by the same rules as attorneys. *Negron v. Golder*, 111 P.3d 538, 541 (Colo. App. 2004); *Loomis v. Seely*, 677 P.2d 400, 402 (Colo. App. 1983). To this end, Applicant's representatives

should become familiar with the legal authority that is applicable to this proceeding. For example, this proceeding is governed by the Rules of Practice and Procedure found at 4 CCR 723-1, and the Rules Regulating Transportation by Motor Vehicle found at 4 CCR 723-6, which are available on the Commission's website at www.dora.colorado.gov/puc, and in hard copy from the Commission. This proceeding is also governed by the Colorado Rules of Evidence, which can be found at the following link, under the "Colorado Court Rules" tab: <http://www.lexisnexis.com/hottopics/colorado/>. This is not intended to be a full and complete description of all legal authority applicable to this proceeding.

8. In anticipation of the hearing, the parties are ordered to file with the Commission and serve on each other disclosures of the witnesses and evidence they intend to present at the hearing in support of their position.

9. An exhibit is any document or other tangible item the party wishes the ALJ to consider in reaching a decision in this matter.

10. Witness lists shall include a description of the witnesses' testimony, the witnesses' last known address and telephone number and job title, if any. Witnesses are those persons who will testify under oath on behalf of a party.

11. Any party who intends to call only **one** of the following: its owner, operator, officer, member, partner, or manager, is not required to file a witness list.¹ However, any party wishing for any other person to testify on its behalf must file a complete witness list as required by this Decision.

¹ It is reasonable to presume that the parties will each call a single representative witness to testify regarding their position on the Application, *e.g.*, why the Application should or should not be granted.

12. Whether the parties are required to file a witness list as stated above *does not* impact the parties' responsibility to file and serve an exhibit list and exhibits.

13. As referenced in this Decision, serving a party with any document (*e.g.*, witness and exhibit lists and exhibits) means that the party is required to give the document to the other parties to the proceeding. Service may be accomplished by United States Mail, or through the Commission's E-filing system, if the party being served is registered with the E-filing system.

14. As referenced in this Decision, filing a document means that the party must provide the document to the Commission and must include the proceeding number with that document.

15. All parties are advised that failure to make disclosures as required by this Decision may result in an order dismissing the Application without prejudice, an order preventing an intervener from participating in this proceeding, or an order preventing the party who violates this order from presenting witnesses and evidence at the evidentiary hearing.

II. ORDER

A. It Is Ordered That:

1. A hearing on the merits of the Application of Objay and Obkay Services LLP (Applicant) for a Permit to Operate as a Contract Carrier by Motor Vehicle for Hire is scheduled as follows:

DATE: December 8, 2014
TIME: 9:15 a.m.
PLACE: Colorado Public Utilities Commission
Commission Hearing Room
1560 Broadway, 2nd Floor
Denver, Colorado

2. At the above date, time, and place you will be given the opportunity to be heard if you so desire.

3. Mr. Olanrewaju Badmus and Mr. John Berko, non-attorneys, may represent Applicant in this proceeding.

4. The disclosure timeframes required by Rules 1405(k)(I) and (II), 4 *Code of Colorado Regulations* 723-1 are waived. A new disclosure schedule is set forth below.

5. Applicant shall file and serve exhibit and witness lists and exhibits on or by 5:00 p.m. MST on November 4, 2014.

6. MKBS LLC, doing business as Metro Taxi, Colorado Springs Transportation LLC, doing business as Yellow Cab Company of Colorado Springs, and Colorado Cab Company LLC, doing business as Denver Yellow Cab and Boulder Yellow Cab shall file and serve exhibit and witness lists and exhibits on or by 5:00 p.m. MST on November 18, 2014.

7. Witness lists shall include a description of the witnesses' anticipated testimony, the witnesses' name and job title (if any), and the witnesses' last known address and telephone number.

8. Any party who intends to call a single witness, who is **one** of the following: its owner, operator, officer, member, partner, or manager, is not required to file a witness list. However, any party wishing for any additional person to testify on its behalf must file a complete witness list as required by this Decision.

9. All exhibits shall be identified by sequential numbers (*e.g.*, Exhibit 1, Exhibit 2, Exhibit 3). The parties shall work together to coordinate sequential numbering of exhibits.

10. Exhibits shall be marked to include the following identifying information: exhibit number, proceeding number, name of the witness who will testify to the exhibit's foundation, and the date of the hearing during which the exhibit will be offered. The parties must have all their exhibits marked and properly identified prior to the time the hearing is scheduled to begin.

11. At the hearing, the parties shall bring an original and four copies of each pre-marked exhibit they intend to introduce, along with a completed exhibit list in the format set forth in Appendix A to this Decision. At hearing, the parties shall distribute the original and four copies of their pre-marked exhibits as follows: the original and one copy for the court reporter, one copy for the Administrative Law Judge, and one copy for each party to the proceeding.

12. If any exhibit is longer than two pages, the party offering the exhibit shall sequentially number *each page* of the exhibit.

13. Except as stated above, failure to file and serve witness lists as required by this Decision, except witnesses called in rebuttal, may result in an order prohibiting any undisclosed witnesses from testifying.

14. Failure to file and serve exhibits as required by this Decision, except exhibits for rebuttal or impeachment, may result in an order rejecting the admission of undisclosed exhibits.

15. 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