

Decision No. R14-1170-I

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 14A-0598BP

IN THE MATTER OF THE APPLICATION OF ELITE, 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
GRANTING UNOPPOSED MOTION,
MODIFYING PROCEDURAL SCHEDULE,
AND WAIVING RESPONSE TIME**

Mailed Date: September 22, 2014

I. STATEMENT

1. On June 3, 2014, Elite, Inc. (Elite or Applicant), filed a verified Application for New Permanent Authority to Operate as a Contract Carrier of Passengers by Motor Vehicle for Hire. That filing commenced this Proceeding.

2. On June 20, 2014, Elite filed an amendment and a confidential supplement to the June 3, 2014 filing. Unless the context indicates otherwise, reference in this Interim Decision to the Application is to the June 3, 2014 filing as amended and supplemented.

3. On June 16, 2014, the Commission issued its Notice of Application Filed (Notice) in this Proceeding (Notice at 3); established an intervention period; and established a procedural schedule. On August 5, 2014, Decision No. R14-0940-I vacated the procedural schedule.

4. The following intervened as of right: Colorado Cab Company, doing business as Denver Yellow Cab and Boulder Yellow Cab (Colorado Cab); Colorado Springs Transportation,

LLC (CST); and MKBS, LLC, doing business as Metro Taxi (Metro Taxi). Each opposes the Application.

5. Colorado Cab, CST, and Metro Taxi, collectively, are the Intervenors. Applicant and Intervenors, collectively, are the Parties. Each party is represented by legal counsel.

6. On July 23, 2014, by Minute Order, the Commission referred this matter to an Administrative Law Judge (ALJ).

7. On July 23, 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 not later than February 18, 2015.

8. On August 15, 2014, Elite filed an Unopposed Proposed Procedural Schedule. On August 22, 2014, by Decision No. R14-1021-I, the ALJ modified and accepted the modified procedural schedule. As adopted, the procedural schedule will allow the Commission to issue its decision in this Proceeding by February 18, 2015.

9. Pursuant to the procedural schedule and as pertinent here, Applicant was to file, not later than September 10, 2014, its list of witnesses and complete copies of the exhibits it will offer in its direct case.

10. Applicant did not file its list of witnesses and copies of its exhibits on September 10, 2014. Neither on nor prior to September 10, 2014 did Applicant make a filing requesting modification of the procedural schedule.

11. On September 19, 2014, Applicant filed its Unopposed Motion for Extension to Submit Exhibits and Witness List (Motion).

12. The Motion is unopposed. As a result, the ALJ will waive response time as no party will be prejudiced by the waiver.

13. In its filing, Applicant seeks a modification of the procedural schedule to permit Applicant to file, not later than September 25, 2014, its witness and exhibit list. As good cause for granting the relief sought, Applicant states: “Applicant has not yet secured all witnesses and documents necessary to submit [the witness and exhibit] list and requires more time to produce this list and exhibits.” Motion at ¶ 5.

14. Applicant did not file the Motion until nine days after the date on which Applicant was to file its list of witnesses and complete copies of its exhibits. In the Motion, Applicant neither explains nor addresses why it failed to file a motion to modify the procedural schedule on or before September 10, 2014, the date on which it was to make the filings. Nonetheless, principally because the Motion is unopposed, the ALJ will grant the Motion and will modify the procedural schedule to permit Applicant to file, not later than **September 25, 2014**, its list of witnesses and copies of exhibits.

15. The remainder of the procedural schedule as set out in Decision No. R14-1021-I is unaffected by this Interim Decision.

II. ORDER

A. It Is Ordered That:

1. The Unopposed Motion for Extension to Submit Exhibits and Witness List filed on September 19, 2014 is granted.

2. The procedural schedule established in Decision No. R14-1021-I is modified: not later than September 25, 2014, Applicant Elite, Inc., shall file its list of witnesses and complete copies of the exhibits it will offer in its direct case.

3. Except as modified by this Interim Decision, the procedural schedule established in Decision No. R14-1021-I remains in full effect.
4. Response time to the procedural schedule established in Decision No. R14-1021-I is waived.
5. The Parties are held to the advisements in the Interim Decisions issued in this Proceeding.
6. 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