

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 14A-0913CP

IN THE MATTER OF THE APPLICATION OF BRUCE R. KUHNS DOING BUSINESS AS
B.A.C.K. COUNTRY TAXI CAB 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
ROBERT I. GARVEY
PERMITTING APPLICANT TO
PROCEED WITHOUT LEGAL COUNSEL
AND SETTING PREHEARING CONFERENCE**

Mailed Date: October 29, 2014

I. STATEMENT

1. On September 3, 2014, Bruce Kuhns, doing business as B.A.C.K. Country Taxicab Service (BACK Country 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 September 8, 2014, the Commission issued its Notice of Application Filed (Notice) in this proceeding by publishing a summary of the same in its Notice as follows:

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

passengers in call-and-demand taxi service

between all points in the Counties of Alamosa, Conejos, Costilla, Rio Grande, and Saguache, State of Colorado.

3. On October 6, 2014, Arthur Joe Martinez, doing business as Little Stinkers Taxicab Service (Little Stinkers) filed their Entry of Appearance and Notice of Intervention

through counsel. This filing attached a preliminary list of witnesses, exhibits, and Commission Authority No. 55607 held by Little Stinkers.

4. On October 15, 2014, by Minute Order, the Commission referred this matter to an Administrative Law Judge (ALJ).

A. Application Deemed Complete and Time for Commission Decision.

5. On October 15, 2014, by Minute Order, the Commission deemed the Application complete as of that date. When BACK Country filed the Application, it provided neither its supporting testimony and exhibits nor a detailed summary of its direct testimony and copies of its exhibits in support of the Application.

6. Pursuant to § 40-6-109.5(2), C.R.S., and absent an enlargement of time by the Commission¹ or Applicant's waiver of the statutory provision, a Commission decision on the Application should issue on or before 210 days from the date on which the Commission deemed the Application to be complete.

B. Proceeding Caption

7. The caption that was assigned for this proceeding was incomplete and did not contain the name of the Applicant.

8. The undersigned ALJ shall *sua sponte* amend the caption so it contains the name of the Applicant.

C. Applicant Legal Counsel/Self Representation

9. *Rule 1201(a) of the Rules of Practice and Procedure, 4 Code of Colorado Regulations (CCR) 723-1*, requires a party in a proceeding before the Commission to be

¹ Section 40-6-109.5(4), C.R.S., permits the Commission to extend the time for decision an additional 90 days upon a finding of extraordinary conditions.

represented by an attorney except that, pursuant to *Rule 1201(b)(1)*, 4 CCR 723-1, and as relevant here, an individual who is not an attorney may appear to represent his or her own interests.

10. The ALJ notes that the application and an Affidavit of Eligibility were executed by Bruce Kuhns who wishes to represent his own interest in the above captioned proceeding.

11. Review of the information provided by Mr. Kuhns in the Application and the supplementary information filed on September 18, 2014 establishes that Mr. Kuhns may represent his own interests.

12. Having met the requirements of *Rule 1201(b)*, 4 CCR 723-1, Mr. Kuhns shall be allowed to represent himself.

13. Applicant is advised, and is on notice, that Mr. Kuhns is the only non-attorney who is authorized to be BACK Country's representative in this proceeding.

14. Mr. Kuhns is advised, and is on notice, that he shall be bound by the same procedural and evidentiary rules as attorneys. The Colorado Supreme Court has held that,

[b]y electing to represent himself [in a criminal proceeding,] the defendant subjected himself to the same rules, procedures, and substantive law applicable to a licensed attorney. A pro se defendant cannot legitimately expect the court to deviate from its role of impartial arbiter and [to] accord preferential treatment to a litigant simply because of the exercise of the constitutional right of self-representation.

People v. Romero, 694 P.2d 1256, 1266 (Colo. 1985).

This standard applies as well to civil proceedings.

Negron v. Golder, 111 P.3d 538, 541 (Colo. App. 2004).

If a litigant, for whatever reason, presents his own case to the court, he is bound by the same rules of procedure and evidence as bind those who are admitted to practice law before the courts of this state.

Loomis v. Seely, 677 P.2d 400, 402 (Colo. App. 1983).

A judge may not become a surrogate attorney for a *pro se* litigant.

Id.

D. Prehearing Conference

15. Given the procedural posture of the case at this point, it is appropriate to hold a prehearing conference to address several issues. The parties to this proceeding should be prepared to discuss all procedural and substantive issues, including deadlines for witness lists, exhibits and supplements to witness lists and exhibits, any amendments to the Application, and a date for a hearing on the Application.

16. All parties are expected to appear at the hearing. However, any party may appear by telephone by calling (303) 869-0599 a few minutes prior to the scheduled start of the hearing.

17. A prehearing conference in this matter will be scheduled as ordered below.

II. ORDER

A. It Is Ordered That:

1. Commission administrative personnel shall amend the Commission's records to reflect that the caption for Proceeding No. 14A-0913CP is changed as set out above in this Decision.

2. A prehearing conference is scheduled in this matter as follows:

DATE:	November 14, 2014
TIME:	9:00 a.m.
PLACE:	Hearing Room Colorado Public Utilities Commission 1560 Broadway, Suite 250 Denver, Colorado

3. All Parties are required to appear for the prehearing conference, but may appear by phone.

4. Bruce Kuhns, doing business as B.A.C.K. Country Taxicab Service, is authorized to proceed with Bruce Kuhns as its non-attorney representative in this matter. Mr. Bruce Kuhns is the only non-attorney who is authorized to represent Bruce Kuhns, doing business as B.A.C.K. Country Taxicab Service in this Proceeding.

5. The Parties shall be held to the advisements in this Decision.

6. This Decision is effective immediately.

(S E A L)



THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

ROBERT I. GARVEY

Administrative Law Judge

ATTEST: A TRUE COPY

A handwritten signature in cursive script that reads "Doug Dean".

Doug Dean,
Director