

Decision No. R14-1327-I

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 14A-0928CP-EXTENSION

IN THE MATTER OF THE APPLICATION OF BOULDER LIFT (THE)* FOR AUTHORITY
TO EXTEND OPERATIONS UNDER CERTIFICATE OF PUBLIC CONVENIENCE AND
NECESSITY NO. 55778.

**INTERIM DECISION OF
ADMINISTRATIVE LAW JUDGE
MANA L. JENNINGS-FADER
CONCERNING COLORADO JITNEY, LLC,
FILING AND CONTAINING ADVISEMENT
TO COLORADO JITNEY, LLC**

Mailed Date: November 3, 2014

I. STATEMENT

1. On September 11, 2014, The Boulder Lift, LLC (Boulder Lift or Applicant), filed a verified Application for Permanent Authority to Extend Current Operations Under Certificate of Public Convenience and Necessity (CPCN) PUC No. 55778. That filing commenced this Proceeding.

2. On September 19, 2014, Applicant filed a supplement to the September 11, 2014 filing. Unless the context indicates otherwise, reference in this Interim Decision to the Application is to the September 11, 2014 filing as supplemented on September 19, 2014.

3. The procedural history of this Proceeding is set out in Decision No. R14-1315-I¹ and is repeated here as necessary to put this Interim Decision in context.

¹ That Interim Decision was issued on October 30, 2014 in this Proceeding. Review of the certificate of service shows that the Interim Decision was served on Colorado Jitney, LLC, doing business as Colorado Jitney.

4. Colorado Cab Company LLC, doing business as Boulder SuperShuttle (SuperShuttle), timely intervened and is a party in this Proceeding.

5. At present, the Parties are Applicant and SuperShuttle.

A. Colorado Jitney's October 29, 2014 Filing.

6. On October 29, 2014, Colorado Jitney, LLC, doing business as Colorado Jitney (Colorado Jitney), filed (in one document) a Request for Waiver in Order to Permissively Intervene, or Alternatively Motions to Supplement its Entry of Appearance and Notice of Intervention by Right, Alternative Motion for Permissive Intervention, Opposition to Application, and Request for Hearing.

7. The ALJ will treat the Request for Waiver in Order to Permissively Intervene as a motion for leave to file an intervention out of time. Response to the October 29, 2014 filing -- both the request to intervene out of time and the alternative motions -- is due not later than **November 12, 2014**

8. Rule 4 *Code of Colorado Regulations* (CCR) 723-1-1400² governs the October 29, 2014 filing. This includes Rule 4 CCR 723-1-1400(d), which provides: "The Commission may treat a failure to file a response as a confession of the motion."

B. Colorado Jitney and Legal Counsel.

9. Rule 4 CCR 723-1-1201(a) requires a party in an adjudication before the Commission to be represented by an attorney except that, pursuant to Rule 4 CCR 723-1-1201(b)(II) and as relevant here, an individual may appear without an attorney to represent the interests of a closely-held entity provided the requirements in § 13-1-127, C.R.S., are met.

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

10. The Commission has held that, if the exception in Rule 4CCR 723-1-1201(b)(II) does not apply, an entity (such as a limited liability company) must be represented by counsel in an adjudication. In addition, the Commission has held that, if a party must be, but is not, represented by an attorney, there are two consequences: first, any filing made by a non-attorney on behalf of the party is void and of no legal effect; and, second, the party cannot participate in a prehearing conference, in an evidentiary hearing, and in an oral argument.

11. This is an adjudication before the Commission.

12. Colorado Jitney is a limited liability company.

13. In Decision No. R14-1315-I at ¶ 14, the ALJ found that the amount in controversy in this Proceeding exceeds \$ 15,000; as a result, found that the exception in Rule 4CCR 723-1-1201(b)(II) does not apply; and pursuant to Rule 4CCR 723-1-1201(a), ordered that Boulder Lift must be represented by an attorney in this case.

14. **Colorado Jitney is advised and is on notice that if the ALJ grants the request for late intervention and allows Colorado Jitney to be a party in this matter**, the ALJ will order Colorado Jitney to obtain legal counsel in this Proceeding. The particulars will be set out in a subsequent Interim Decision if the ALJ grants Colorado Jitney's request and permits it be a party in this Proceeding.

II. ORDER

A. It Is Ordered That:

1. The Request for Waiver in Order to Permissively Intervene filed on October 29, 2014 by Colorado Jitney, LLC, doing business as Colorado Jitney, is a motion for leave to file an intervention out of time.

2. Rule 4 *Code of Colorado Regulations* (CCR) 723-1-1400 governs the October 29, 2014 filing made by Colorado Jitney, LLC, doing business as Colorado Jitney.
3. The Parties and Colorado Jitney, LLC, doing business as Colorado Jitney, are held to the advisements in Interim Decisions issued in this Proceeding.
4. 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