

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 14A-0872CP-TRANSFER

IN THE MATTER OF THE APPLICATION FOR AUTHORITY TO TRANSFER
CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY NO. 55797 FROM
SPRING CAB, LLC, TO SPRING CABS, LLC.

**INTERIM DECISION OF
ADMINISTRATIVE LAW JUDGE
MANA L. JENNINGS-FADER
SCHEDULING EVIDENTIARY HEARING,
ESTABLISHING PROCEDURAL SCHEDULE,
SHORTENING RESPONSE TIME TO MOTIONS
AS STATED IN THE INTERIM DECISION,
AND CONTAINING ADVISEMENTS**

Mailed Date: November 7, 2014

I. STATEMENT

1. On August 19, 2014, Spring Cab, LLC, doing business as Spring Cab (Transferor), and Springs Cab, LLC (Transferee) (collectively, Applicants), filed a verified Application for Authority to Transfer Certificate of Public Convenience and Necessity No. 55797 from Spring Cab, LLC, to Springs Cab, LLC. That filing commenced this Proceeding.

2. On September 9, 2014, Applicants filed a supplement to the August 19, 2014 filing. Unless the context indicates otherwise, reference in this Interim Decision to the Application is to the August 19, 2014 filing as supplemented on September 9, 2014.

3. Colorado Springs Transportation LLC, doing business as Yellow Cab of Colorado Springs (Yellow Cab or Intervenor), is a party in this Proceeding.

4. Transferor, Transferee, and Yellow Cab, collectively, are the Parties. Each party is represented by legal counsel.

5. On October 1, 2014, by Minute Order, the Commission referred this matter to an Administrative Law Judge (ALJ).

6. The procedural history of this Proceeding is set out in Interim Decisions previously issued in this matter. The procedural history is repeated here as necessary to put this Interim Decision in context.

7. On October 1, 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 Commission¹ or Applicants' waiver of the statutory provision, a Commission decision on the Application should issue ~~not~~later than April 28, 2015.

8. By Decision No. R14-1210-I,² the ALJ required Applicants to consult with Intervenor and to make a filing that: (a) contained a procedural schedule, including hearing date, that is satisfactory to the Parties; and (b) addressed the issues discussed in that Interim Decision.

9. On October 17, 2014, Transferee filed a Proposed Procedural Schedule. In that filing, Transferee represents that there is ~~no~~objection to the proposed dates.

10. The ALJ will schedule the evidentiary hearing in this matter for **December 17, 2014**. The scheduled date is a date that Transferee proposed. Holding the evidentiary hearing on the scheduled date will permit the Commission to issue its decision in this Proceeding not later than April 28, 2015.

11. The ALJ finds the proposed procedural schedule satisfactory. The ALJ will order the following procedural schedule: (a) ~~not~~later than **November 24, 2014**, Transferor and

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.

² This Interim Decision was issued on October 2, 2014 in this Proceeding.

Transferee each will file its list of witnesses in its direct case and complete copies of the exhibits that it will offer in its direct case; (b) ~~not~~later than **December 8, 2014**, Intervenor will file its list of witnesses and complete copies of the exhibits that it will offer in its case; (c) ~~not~~later than **December 12, 2014**, Transferor and Transferee each will file, only if necessary to correct an error in its previous filing, a corrected list of witnesses and complete copies of the corrected exhibits that it will offer in its case; (d) ~~not~~later than **December 12, 2014**, Intervenor will file, only if necessary to correct an error in its previous filing, a corrected list of witnesses and complete copies of the corrected exhibits that it will offer in its case; (e) ~~not~~later than **December 12, 2014**, each party will file its prehearing motions, including dispositive motions and motions *in limine*;³ (f) ~~not~~later than **December 12, 2014**, the Parties will file any settlement agreement or stipulation that they have reached; (g) the hearing will be held in Denver, Colorado on **December 17, 2014**; and (h) ~~not~~later than **January 8, 2015**, each party will file its post-hearing statement of position.

12. Each witness who will be called to testify (except a witness called in Transferor's or Transferee's rebuttal case) must be identified on the list of witnesses that ¶ 11 requires each party to file. The list of witnesses must contain the following information for each listed witness: (a) the name of the witness; (b) the address of the witness; (c) the business telephone number or daytime telephone number of the witness; and (d) a detailed summary of the testimony that the witness is expected to give.

³ As a preliminary matter at the evidentiary hearing, the ALJ will hear argument on any pending prehearing motion.

13. **The Parties are advised, and are on notice, that** no person will be permitted to testify on behalf of a party (except in Transferor's or Transferee's rebuttal case) unless the person is identified on the list of witnesses filed in accordance with this Interim Decision.

14. **The Parties are advised, and are on notice, that**, absent an order, no witness may present testimony by telephone. If a party desires to have a witness testify by telephone, the party must file an appropriate motion not later than the date for filing prehearing motions. Unless otherwise ordered, responses to such a motion must be written and must be filed within *two business days of service of the motion*.⁴ The ALJ will rule, as soon as practicable, on a motion for leave to present testimony by telephone.

15. Complete copies of all exhibits (except an exhibit offered in Transferor's or Transferee's rebuttal case or an exhibit to be used in cross-examination) will be filed as required in ¶ 11.

16. **The Parties are advised, and are on notice, that** no document -- *including the Application and its supporting documents* -- will be admitted into evidence (except in Transferor's or Transferee's rebuttal case or when used in cross-examination) unless that document is filed in accordance with this Interim Decision.

17. Rule 4 *Code of Colorado Regulations* (CCR) 723-1-1405⁵ will govern discovery in this Proceeding.

18. Motions pertaining to discovery may be filed at any time. Unless otherwise ordered, responses to such motions must be written and must be filed within *three business days*

⁴ By this Interim Decision, the ALJ will shorten the response time to this type of motion.

⁵ This Rule is found in the Rules of Practice and Procedure, Part 1 of 4 *Code of Colorado Regulations* 723.

*of service of the motion.*⁶ If necessary, the ALJ will hold a hearing on a discovery-related motion as soon as practicable after the motion is filed.

19. Rules 4CCR 723-1-1100 and 723-1-1101 will govern the treatment of information claimed to be confidential.

20. **The Parties are advised, and are on notice, that** it is the responsibility of each party to have, at the evidentiary hearing, a sufficient number of copies of each document that the party wishes to offer as an exhibit.⁷ **The Parties are advised, and are on notice, that** the fact that exhibits are prefiled in accordance with this Interim Decision does *not* alter the requirement set out in this paragraph.

II. ORDER

A. **It Is Ordered That:**

1. The evidentiary hearing in this matter shall be held on the following date, at the following time, and in the following location:

DATE: December 17, 2014

TIME: 9:00 a.m.

PLACE: Commission Hearing Room
1560 Broadway, Suite 250
Denver, Colorado

2. The following procedural schedule is adopted: (a) not later than November 24, 2014, Spring Cab, LLC, doing business as Spring Cab (Transferor), and Springs Cab, LLC (Transferee), each shall file its list of witnesses in its direct case and complete copies of the exhibits that it shall offer in its direct case; (b) not later than December 8, 2014,

⁶ By this Interim Decision, the ALJ will shorten the response time to discovery-related motions.

⁷ The Commission will not make copies of exhibits.

Colorado Springs Transportation LLC, doing business as Yellow Cab of Colorado Springs (Intervenor), shall file its list of witnesses and complete copies of the exhibits that it shall offer in its case; (c) not later than December 12, 2014, Transferor and Transferee each shall file, only if necessary to correct an error in its previous filing, a corrected list of witnesses and complete copies of the corrected exhibits that it shall offer in its case; (d) not later than December 12, 2014, Intervenor shall file, only if necessary to correct an error in its previous filing, a corrected list of witnesses and complete copies of the corrected exhibits that it shall offer in its case; (e) not later than December 12, 2014, each party shall file its prehearing motions; (f) not later than December 12, 2014, the Parties shall file any settlement agreement or stipulation that they have reached; and (g) not later than January 8, 2015, each party shall file its post-hearing statement of position.

3. No person shall be permitted to testify on behalf of a party (except in Transferor's or Transferee's rebuttal case) unless the person is identified on the list of witnesses filed in accordance with this Interim Decision.

4. Absent an order, no person shall be permitted to present testimony by telephone. If a party desires to have a witness testify by telephone, the party shall file an appropriate motion not later than the date for filing prehearing motions.

5. Response time to a motion to present testimony by telephone is shortened to two business days from the date of service.

6. No document shall be admitted into evidence (except in Transferor's or Transferee's rebuttal case or when used in cross-examination) unless that document is filed in accordance with this Interim Decision.

7. Rule 4 *Code of Colorado Regulations 723-1-1405* governs discovery.

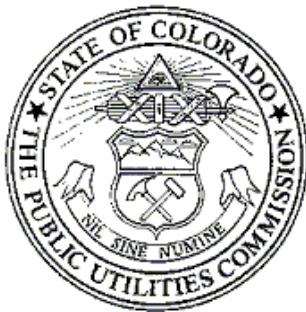
8. Response time to a motion pertaining to discovery is shortened to three business days from the date of service.

9. Rules 4 *Code of Colorado Regulations* 723-1-1100 and 723-1-1101 govern the treatment of information claimed to be confidential.

10. The Parties are held to the advisements in the Interim Decisions issued in this Proceeding.

11. 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