

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 14A-0327CP

IN THE MATTER OF THE APPLICATION OF PIKES PEAK SATCOM, INC., DOING
BUSINESS AS NEW INTERCONTINENTAL EXPRESS 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
MELODY MIRBABA
ACCEPTING AMENDMENTS TO APPLICATION,
DISMISSING IDENTIFIED INTERVENERS,
VACATING CERTAIN HEARING DATES, AND
GRANTING MOTION FOR TELEPHONE TESTIMONY**

Mailed Date: November 13, 2014

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I. STATEMENT, FINDINGS, AND CONCLUSIONS

1. Only those portions of the procedural history necessary to understand this Decision are included.

2. Pikes Peak SATCOM, Inc., doing business as New Intercontinental Express (Applicant), filed an Application for a Certificate of Public Convenience and Necessity to

Operate as a Common Carrier by Motor Vehicle for Hire (Application) with the Colorado Public Utilities Commission (Commission) on April 10, 2014. Applicant amended its Application on April 16, 2014, and again on May 13, 2014.¹

3. Twenty-one separate parties filed timely interventions objecting to the authority sought by Applicant, including Home James Transportation Services, Ltd. (Home James), Alpine Taxi/Limo, doing business as Alpine and Go Alpine (Go Alpine), AEX, doing business as Alpine Express (Alpine Express), Tazco, Inc., doing business as Sunshine Taxi (Sunshine Taxi), Mercy Medical Transportation Services, LLC (Mercy Medical), Colorado Springs Shuttle, LLC (Colorado Springs Shuttle), Colorado Coach Transportation, LLC (Colorado Coach), Hy-Mountain Transportation (Hy-Mountain), MT Acquisitions LLC, doing business as Mountains Taxi (Mountains Taxi), Estes Valley Transport, Inc. (Estes Valley), Valera Lea Holtorf, doing business as Dashabout Shuttle Company and Roadrunner Express (Dashabout), City Cab Co. (City Cab), Magic Bus, LLC (Magic Bus), Ramblin' Express Inc., MKBS, LLC, doing business as Metro Taxi (Metro Taxi), SuperShuttle International Denver, Inc. (SuperShuttle), Colorado Cab Company LLC, doing business as Denver Yellow Cab, Boulder Yellow Cab, and Boulder SuperShuttle (Colorado Cab), and Colorado Springs Transportation, LLC (Colorado Springs Transportation).

4. The Commission deemed the Application complete and referred it to an administrative law judge (ALJ) for disposition on June 25, 2014.

5. After holding a prehearing conference, the ALJ scheduled this matter for an evidentiary hearing for November 13, 14, 17 through 21 and 24, 2014. Decision No. R14-0837-I issued July 17, 2014.

¹ All references to the Application are to the Application as amended on May 13, 2014.

A. Amendments to Application and Hearing Schedule.

6. On October 24, 2014, the Applicant filed a “Stipulated Motion of Pikes Peak Satcom, d/b/a New-Intercontinental-Express (NICE) on the One Hand, and on the Other Hand, AEX, Inc., d/b/a Alpine Express; Alpine Taxi/Limo, Inc., d/b/a Alpine and/or Go Alpine; Home James Transportation Services Ltd.; and Tazco, Inc., d/b/a Sunshine Taxi to Restrictively Amend the Application, for Conditional Withdrawal of Each Named Intervener’s Intervention, and for a Waiver of the Response Time” (Stipulation).

7. On October 28, 2014, Mercy Medical filed a letter stating that if the restrictive amendments proposed by the Stipulation are accepted, that Mercy Medical withdraws its intervention.

8. On November 10, 2014, the ALJ accepted the amendments to the Application proposed by the Stipulation, and dismissed Go Alpine, Alpine Express, Mercy Medical, Sunshine Taxi, and Home James as parties.

9. The remaining parties are: Metro Taxi, Colorado Cab, SuperShuttle, Colorado Springs Transportation, City Cab, Magic Bus, Colorado Springs Shuttle, Colorado Coach Transportation, Estes Valley, Hy-Mountain, Mountains Taxi, Ramblin’ Express, and Dashabout.

10. The ALJ convened the hearing on November 13, 2014. Applicant appeared through counsel, Mr. Igor Raykin; Colorado Cab, SuperShuttle, and Colorado Springs Transportation appeared through counsel, Mr. Mark Valentine; and Colorado Springs Shuttle, Colorado Coach Transportation, Estes Valley, Hy-Mountain, Mountains Taxi, Ramblin’ Express, and Dashabout appeared through counsel, Mr. Charles Kimball. Metro Taxi, City Cab, and Magic Bus failed to appear.

11. Applicant informed the ALJ that it filed a “Stipulation, Motion for Approval of Restrictive Amendments and Motion for Conditional Withdrawal of Intervention” (Second Stipulation) the evening of November 12, 2014. Because the document was submitted after 5:00 p.m., it was deemed filed on November 13, 2014. *See* Rule 1205 of the Rules of Practice and Procedure, 4 *Code of Colorado Regulations* (CCR) 723-1.

12. In light of the Second Stipulation, Applicant requested that four of the hearing dates be vacated, to allow Colorado Springs Shuttle, Colorado Coach Transportation, Estes Valley, Hy-Mountain, Mountains Taxi, Ramblin’ Express, and Dashabout an opportunity to determine if their interests in this proceeding are resolved by the Second Stipulation (or to attempt to reach an agreement which resolves their objections). No party objected to this request. The parties agreed that if a hearing is necessary, it can be completed in the remaining four days scheduled for the hearing. The ALJ vacated the hearing scheduled for the rest of the day on November 13, 2014, as well as the hearing set for November 14, 17 and 18, 2014. The hearing set for November 19, 20, 21, and 24 remain unchanged.

13. The Second Stipulation is executed by counsel for Applicant, Colorado Cab, SuperShuttle, Colorado Springs Transportation, and Metro Taxi. It proposes that the Application be restrictively amended to eliminate shuttle service, and to restrict the authority sought by the Application as follows: (1) to the operation of no more than five vehicles at any one time for one year from the date the Commission issues a final decision in this matter; (2) to the operation of no more than seven vehicles during the second year after the date of a final Commission decision; and (3) to the use of vehicles with a capacity of not less than six passengers.

14. In light of the restrictive nature of these proposed amendments, the ALJ finds good cause to waive the response time to the Second Stipulation, and will do so. Rule 1400(b), 4 CCR 723-1.

15. If the proposed restrictive amendments are approved, the Application would seek:

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

passengers in call-and-demand charter service, and call-and-demand sightseeing service

between all points in the State of Colorado.

Restrictions. This Application is restricted:

- (1) Against providing any transportation service:
 - (A) Between any points in Gunnison County, Colorado, and to or from any points in Gunnison County, Colorado;
 - (B) Between any points in Routt County, Colorado, and to or from any points in Routt County, Colorado;
 - (C) Between any points in Moffat County, and to or from any points in Moffat County;
 - (D) Between any points in Mesa County, and to or from any points in Mesa County; and
 - (E) Between any points in Grand County, Colorado, and to or from any points in Grand County, Colorado, except that transportation service is permitted to or from those points in Rocky Mountain National Park that are within Grand County, Colorado.
- (2) To the operation of no more than five vehicles at any one time for one year from the date the Commission issues a final decision in Proceeding No. 14A-0327CP;
- (3) To the operation of no more than seven vehicles during the second year after the date of a final Commission decision in Proceeding No. 14A-0327CP, and
- (4) To the use of vehicles with a capacity of not less than six passengers.

16. If the restrictive amendments are approved, Colorado Cab, SuperShuttle, Colorado Springs Transportation, and Metro taxi withdraw their interventions.

17. To be acceptable, the proposed amendments must be restrictive in nature, must be clear and understandable, and must be administratively enforceable. Both the common carrier permit and any restriction on that permit must be unambiguous and must be contained wholly within the authority granted. Both must be worded so that a person will know, from reading the common carrier permit and without having to resort to any other document, the exact extent of the authority and of each restriction. Clarity is essential because the scope of a common carrier permit must be found within the four corners of the authority, which is the touchstone by which one determines whether the operation of a common carrier is within the scope of its Commission-granted authority.

18. The ALJ finds and concludes that the proposed amendments are restrictive in nature, administratively enforceable, and clear and understandable. For good cause shown, the restrictive amendments proposed by the Second Stipulation will be accepted. The authority sought (as stated in the notice and the Application) will be amended to conform to the restrictive amendments.

B. Dismissal of Interveners.

19. Because the ALJ has accepted the restrictive amendments, Colorado Cab, SuperShuttle, Colorado Springs Transportation, and Metro Taxi will be dismissed as parties, and their interventions withdrawn, as requested in the Second Stipulation.

C. Motion to Take Testimony by Telephone.

20. On November 5, 2014, Colorado Springs Shuttle, Colorado Coach, Hy-Mountain, Mountains Taxi, Estes Valley, and Dashabout filed a “Motion to Take Testimony by Telephone” (Motion). The Motion seeks to take testimony of the named interveners’ witnesses by telephone, for the convenience of the out-of-town witnesses. By Decision No. R14-1349-I, the ALJ

shortened the response time to the Motion to the time of the November 13, 2014 hearing. At the November 13, 2014 hearing, no party objected to the Motion. The ALJ granted the Motion.

II. ORDER

A. It Is Ordered That:

1. The “Stipulation, Motion for Approval of Restrictive Amendments and Motion for Conditional Withdrawal of Intervention” is granted.

2. The Application of Pikes Peak SATCOM, Inc., doing business as New Intercontinental Express, for a Certificate of Public Convenience and Necessity to Operate as a Common Carrier by Motor Vehicle for Hire is amended as set forth in ¶ 15 above.

3. The interventions filed by MKBS, LLC, doing business as Metro Taxi (Metro Taxi), SuperShuttle International Denver, Inc. (SuperShuttle), Colorado Cab Company LLC, doing business as Denver Yellow Cab, Boulder Yellow Cab and Boulder SuperShuttle (Colorado Cab), and Colorado Springs Transportation, LLC (Colorado Springs Transportation) are withdrawn.

4. Metro Taxi, SuperShuttle, Colorado Cab, and Colorado Springs Transportation are dismissed as parties to this proceeding.

5. The “Motion to Take Testimony by Telephone” is granted.

6. The remainder of the hearing scheduled for November 13, 2014 is vacated. The hearing scheduled for November 14, 17, and 18, 2014 are vacated. The November 19, 20, 21, and 24, 2014 hearing dates remain unchanged.

7. 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