

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 14A-0929BP-EXTENSION

IN THE MATTER OF THE APPLICATION OF RLJ III MH DENVER AIRPORT LESSEE
DOING BUSINESS AS DENVER AIRPORT MARRIOTT AT GATEWAY PARK FOR
AUTHORITY TO EXTEND OPERATIONS UNDER CONTRACT CARRIER PERMIT
NO. B-9894.

**RECOMMENDED DECISION OF
ADMINISTRATIVE LAW JUDGE
ROBERT I. GARVEY
DISMISSING APPLICATION WITHOUT PREJUDICE**

Mailed Date: November 28, 2014

I. STATEMENT

1. RLJ III Denver Airport Lessee, doing business as Denver Airport Marriott at Gateway Park (Applicant), initiated the captioned proceeding on September 10, 2014, by filing an application seeking authority to extend contract carrier Permit No. B-9894 with the Colorado Public Utilities Commission (Commission).

2. On September 22, 2014, the Commission provided public notice of the application to extend the permit by publishing a summary of the same in its Notice of Applications Filed:

Currently, Permit No. B-9894 authorizes the following:

Transportation of

passengers

between Residence Inn Marriott, 16490 East 40th Circle, Aurora, Colorado 80011, Hilton Garden Inn, 16475 East 40th Circle, Aurora, Colorado 80011, and Aloft Hotel, 16470 East 40th Circle, Aurora, Colorado 80011 and between said points, on the one hand, and Denver International Airport, Denver, Colorado, on the other hand.

RESTRICTIONS:

- (A) To providing transportation service for Residence Inn Marriott, 16490 East 40th Circle, Aurora, Colorado 80011;
- (B) To providing transportation service for Hilton Garden Inn, 16475 East 40th Circle, Aurora, Colorado 80011;
- (C) To providing transportation service for Aloft Hotel, 16470 East 40th Circle, Aurora, Colorado 80011; and
- (D) To the operation of five (5) vehicles with a seating capacity of not more than twenty-one (21) persons including the driver.

The proposed extension of authority seeks to eliminate restriction (D) from the Permit.

3. On October 8, 2014, MKBS, LLC, doing business as Metro Taxi and/or Taxis Fiesta and/or South Suburban Taxi (Metro Taxi) filed their Entry of Appearance and Notice of Intervention of Right through counsel. This filing attached Commission Authority No. 1481 held by Metro Taxi and a preliminary list of witnesses and exhibits.

4. On November 5, 2014, the Commission deemed the application complete and it was referred to an Administrative Law Judge (ALJ).

5. By Interim Decision No. R14-1359-I, issued on November 12, 2014, a prehearing conference was scheduled for November 25, 2014 at 10:00 a.m.

6. Service of Interim Decision No. R14-1359-I was made to the Applicant by e-filings.

7. Prior to the prehearing conference, Applicant did not contact the ALJ, the Commission, or the Commission Staff to request a change in the date or time of the prehearing conference.

8. The ALJ held the prehearing conference, although scheduled to begin at 10:00 a.m. the ALJ delayed the start of the prehearing conference until 10:15 a.m.

because Applicant was not present at the scheduled start time. When the Applicant had not appeared by 10:15 a.m., the ALJ called the prehearing conference to order.

9. An oral motion was made by the Intervenor, Metro Taxi to dismiss the application due to the Applicants abandonment of the application.

10. The oral motion to dismiss was granted at the prehearing conference. This decision memorializes that decision.

11. The Application will be dismissed for the failure of the Applicant to prosecute this case. He had actual notice of the prehearing conference and failed to appear or to explain his failure to appear. Under these circumstances, the ALJ finds that it would waste the Commission's time, would waste the Intervenor's time, and would increase Intervenor's litigation-related costs to keep this matter open.

12. Based on the foregoing, the ALJ finds and concludes that the oral Motion to Dismiss should be granted; that the Application should be dismissed without prejudice; and that Proceeding No. 14A-0929BP-Extension should be closed.

13. Pursuant to § 40-6-109(2), C.R.S., the ALJ recommends that the Commission enter the following Order.

II. ORDER

A. The Commission Orders That:

1. The oral motion to dismiss is granted.
2. The application seeking authority to extend contract carrier Permit No. B-9894 with the Colorado Public Utilities Commission filed by RLJ III Denver Airport Lessee, doing business as Denver Airport Marriot at Gateway Park is dismissed without prejudice.

3. Proceeding No. 14A-0929BP-Extension is closed.

4. This Recommended Decision shall be effective on the day it becomes the Decision of the Commission, if that is the case, and is entered as of the date above. This Recommended Decision shall be effective on the day it becomes the Decision of the Commission, if that is the case, and is entered as of the date above.

5. As provided by § 40-6-109, C.R.S., copies of this Recommended Decision shall be served upon the parties, who may file exceptions to it.

a) If no exceptions are filed within 20 days after service or within any extended period of time authorized, or unless the decision is stayed by the Commission upon its own motion, the recommended decision shall become the decision of the Commission and subject to the provisions of § 40-6-114, C.R.S.

b) If a party seeks to amend, modify, annul, or reverse basic findings of fact in its exceptions, that party must request and pay for a transcript to be filed, or the parties may stipulate to portions of the transcript according to the procedure stated in § 40-6-113, C.R.S. If no transcript or stipulation is filed, the Commission is bound by the facts set out by the administrative law judge and the parties cannot challenge these facts. This will limit what the Commission can review if exceptions are filed.

6. If exceptions to this Decision are filed, they shall not exceed 30 pages in length, unless the Commission for good cause shown permits this limit to be exceeded.

(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