

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.

**RECOMMENDED DECISION OF
ADMINISTRATIVE LAW JUDGE
MELODY MIRBABA
GRANTING AMENDED APPLICATION**

Mailed Date: December 11, 2014

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I. STATEMENT, FINDINGS, AND CONCLUSIONS

A. Procedural Background.

1. 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. The Commission gave notice of the Application, as amended on April 21, 2014.

2. The Commission referred this matter to an administrative law judge (ALJ) for disposition.

3. The following parties filed timely interventions objecting to the authority sought by Applicant: 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. (Ramblin' Express), 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), Colorado Springs Transportation, LLC (Colorado Springs Transportation), Almaz Transportation LLC (Almaz), and Banaadir Transportation Company (Banaadir).

4. On April 29, 2014, Mountains Taxi filed a "Stipulation, Motion for Approval of Restrictive Amendment, and Approval of Conditional Withdrawal of Interventions, Motion to Vacate Hearing, and If the Commission Desires, Set a Hearing on the Stipulation for April 10, 2014 and Notice of waiver of the 210-Day Deadline." This filing does not include the case title

or proceeding number for this proceeding; instead, it refers to a different proceeding entirely. The context of the filing confirms this. As such, the ALJ has not and will not rule on this filing.

5. On May 13, 2014, Applicant amended its Application. The Commission provided notice of the Application as amended on May 19, 2014.

6. Pursuant to its May 13, 2014 amendment, the Application sought authority to operate as a common carrier by motor vehicle for hire for the transportation of passengers in call-and-demand shuttle service, call-and-demand charter service, and call-and-demand sightseeing service between all points in the State of Colorado.

7. On June 16, 2014, Hy-Mountain filed a “Motion to Strike or Dismiss Application, or in the Alternative, Motion in Limine” (Motion to Dismiss).

8. On July 2, 2014, the ALJ ordered that the interventions of Banaadir and Almaz be stricken from the record, and that they be dismissed as parties, for failing to establish their interventions were of right. Decision No. R14-0746-I.

9. The ALJ convened a prehearing conference as previously noticed. Decision No. R14-0837-I issued July 17, 2014. Magic Bus and City Cab failed to appear. All other parties appeared. The ALJ scheduled this matter for an evidentiary hearing for November 13, 14, 17 through 21 and 24, 2014 and established a procedural schedule for disclosure of evidence. Decision No. R14-0837-I.

10. During the prehearing conference, Applicant waived the 210-day statutory deadline under § 40-6-109.5(2), C.R.S., for a Commission decision to issue. Also during the prehearing conference, the ALJ denied Hy-Mountain’s Motion to Dismiss.

11. Based on Magic Bus and City Cab’s failure to appear at the prehearing conference, the ALJ ordered that they show cause why they should not be dismissed as parties.

Decision No. R14-0839-I issued July 17, 2014. Magic Bus and City Cab satisfied the show cause order by a filing made on July 22, 2014.

12. 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” (October 24 Stipulation).

13. The October 24 Stipulation sought to restrictively amend the Application to eliminate Gunnison County, Mesa County, Moffat County, Routt County, and to restrict transportation in Grand County to service to and from points in Rocky Mountain National Park.

14. The October 24 Stipulation indicates that Home James, Go Alpine, Alpine Express, and Sunshine Taxi withdraw their interventions once the amendments therein are accepted.

15. On October 28, 2014, Mercy Medical filed a letter stating that if the restrictive amendments proposed by the October 24 Stipulation are accepted, that Mercy Medical withdraws its intervention.

16. 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 for Telephone Testimony). The ALJ shortened the response time to the Motion for Telephone Testimony to the time of the evidentiary hearing scheduled for November 13, 2014; the Motion granted after no party objected to it during the hearing. Decision Nos. R14-1349-I issued November 10, 2014 and Decision No. R14-1369-I issued November 14, 2014.

17. On November 10, 2014, the ALJ accepted the restrictive amendments proposed by the October 24 Stipulation, dismissed Home James, Go Alpine, Alpine Express, Sunshine Taxi, and Mercy Medical as parties and shortened the response time to the Motion to the time of the November 13, 2014 hearing. Decision No. R14-1349-I. As amended by the October 24 Stipulation, the Application seeks:

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

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

between all points in the State of Colorado.

RESTRICTIONS. This Application is restricted:

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.

18. On November 13, 2014, the ALJ convened the evidentiary hearing. With the exception of City Cab, Magic Bus, and Metro Taxi, all remaining parties appeared. During the hearing, Applicant informed the ALJ that it filed a “Stipulation, Motion for Approval of Restrictive Amendments and Motion for Conditional Withdrawal of Intervention” (November 13 Stipulation) the evening of November 12, 2014. Because the document was submitted

after 5:00 p.m., it was deemed filed on November 13, 2014.¹ See Rule 1205 of the Rules of Practice and Procedure, 4 *Code of Colorado Regulations* (CCR) 723-1. Applicant, Colorado Cab, SuperShuttle, Colorado Springs Transportation, and Metro Taxi executed the November 13 Stipulation.

19. In light of the November 13 Stipulation, Applicant requested that four of the hearing dates be vacated. No party objected to this request. 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. Decision No. R14-1369-I. The hearing set for November 19, 20, 21, and 24, 2014 remained unchanged. *Id.*

20. On November 14, 2014, the ALJ accepted the proposed amendments in the November 13 Stipulation. Decision No. R14-1369-I. Pursuant to those amendments, the Application seeks:

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;

¹ As of the time of the hearing, that filing had not been posted to the Commission's e-filing system.

- (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.

21. Pursuant to the November 13 Stipulation, upon approving the restrictive amendments, Colorado Cab, SuperShuttle, Colorado Springs Transportation, and Metro Taxi's interventions were withdrawn and they were dismissed as parties. Decision No. R14-1369-I.

22. On November 14, 2014, Mountains Taxi made a filing withdrawing its intervention. Likewise, on November 17, 2014, Colorado Springs Shuttle, and Ramblin' Express made a filing withdrawing their interventions. In addition, on November 19, 2014, Hy-Mountain also withdrew its intervention.

23. Thus, as of November 19, 2014, the following interveners remained parties: City Cab, Magic Bus, Dashabout, Estes Valley, and Colorado Coach.

24. On November 19, 2014, Colorado Coach filed a "Motion to Amend Application and Stipulation for Conditional Approval and Withdrawal of Intervention" (Motion to Amend). Later that same day, Colorado Coach made a filing seeking to withdraw the Motion to Amend, along with a second "Motion to Amend Application and Stipulation for Conditional Approval and Withdrawal of Intervention," (November 19 Stipulation), executed by Colorado Coach and

Applicant. The November 19 Stipulation seeks to amend the Application to add the following restrictive provisions:

- (1) Transportation of passengers between points in the cities of Central City and/or Blackhawk, Colorado is restricted to service provided pursuant to a written charter agreement which also includes transportation of those same passengers from a point outside of those cities to a point within one of them;
- (2) Restricted against transportation pursuant to a charter or sightseeing agreement within the cities of Black Hawk, Colorado and/or Central City, Colorado; and
- (3) Transportation of traffic to and/or from Boulder County, Colorado is restricted to transportation to and/or from the City of Boulder, Colorado.

25. Upon approval of the proposed amendments, Colorado Coach withdraws its intervention.

26. Also on November 19, 2014, Estes Valley filed a “Motion to Amend Application and Stipulation for Conditional Approval and Withdrawal of Intervention” (Second November 19 Stipulation), which is executed by Estes Valley and Applicant. The Second November 19 Stipulation seeks to amend the Application to add the following restrictive provisions:

- (1) Transportation of passengers between points within a twelve (12) mile radius of the intersection of U.S. Highways 34 and 36 in Estes Park, Colorado, is restricted to service provided pursuant to a written charter agreement which also includes transportation of those same passengers from a point outside of the above described radial area to a point within that area; and
- (2) Restricted against transportation to and from the facilities of YMCA of the Rockies, located in Larimer County, Colorado.

27. Upon approval of the proposed amendments, Estes Valley withdraws its intervention.

28. The ALJ convened the evidentiary hearing as previously noticed on November 20, 2014. Decision Nos. R14-1384-I and R14-1275-I. Magic Bus and City Cab failed to appear for

a second time. Applicant indicated that it had reached a settlement with Dashabout, which Applicant believed was filed the previous day. The ALJ reviewed the record of filings in this proceeding, and found that no such agreement was filed. Applicant was ordered to file the agreement forthwith. Given the multiple amendments to the Application, none of which summarize the entire authority Applicant seeks, the ALJ ordered Applicant to make a filing setting forth the exact language of the entire authority it seeks, to include all the amendments proposed by all stipulations it has executed.

29. Because the only parties who had not entered into an agreement to withdraw their interventions (Magic Bus and City Cab) did not appear at the hearing, the remaining portion of the November 20, 2014 hearing was vacated, and the hearings scheduled for November 21 and 24, 2014 were also vacated.

30. Later on November 20, 2014, Dashabout filed a “Motion to Amend Application and Stipulation for Conditional Approval and Withdrawal of Intervention” (November 20 Stipulation). The November 20 Stipulation seeks to amend the Application to add the following restrictive provision: “[r]estricted against the transportation of passengers for, to or between points east of a line drawn north and south through the intersection of U.S. Highways 34 and 85 in Greeley, Colorado, and north of Interstate 70 and east of the above-described line.”

31. Upon approval of the proposed amendments, Dashabout withdraws its intervention.

32. On December 2, 2014, Applicant filed a “Motion for Approval of Restrictive Amendments and Motion for Dismissal of All Interventions” (original Motion). On December 3, 2014, Applicant filed a “First Revised Motion for Approval of Restrictive Amendments and Dismissal of Interventions” (second Motion). And, on December 10, 2014, Colorado Springs

Shuttle filed a “First Revised Motion for Approval of Restrictive Amendments and Motion for Dismissal of All Interventions” (third Motion). The third Motion is executed by counsel for Colorado Springs Shuttle, Dashabout, and Applicant, while the original and second Motion are executed only by Applicant.

33. The context of all three Motions indicate that the third Motion is intended to supersede and replace the first two Motions. Consequently, the ALJ will deny the original Motion and the second Motion as moot.

34. Given the nature of the third Motion, the ALJ will *sua sponte* waive the response time to it. Rule 1400(b), 4 CCR 723-1. As an initial matter, the ALJ finds that the third Motion complies with the ALJ’s verbal order at the November 20, 2014 hearing requiring Applicant to make a filing setting forth the complete authority it seeks, with all the proposed amendments to the authority. However, the third Motion makes changes both to the November 19 Stipulation (with Colorado Coach) and the November 20 Stipulation (with Dashabout). Given that counsel for Colorado Coach and Dashabout signed the third Motion, those changes are jointly requested by Colorado Coach and Dashabout.

35. In particular, the third Motion proposes that the November 19 Stipulation be modified to eliminate the following language, “[r]estricted against transportation pursuant to a charter or sightseeing agreement within the cities of Black Hawk, Colorado and/or Central City, Colorado”, while adding the following language “[a]pplicant is further restricted from contracting directly with the municipal entities of the City of Black Hawk and City of Central City for the provision of transportation services directly to those municipalities in their role as government entities.”

36. In addition, the third Motion also seeks to modify the November 20 Stipulation to add the following language as a part the proposed restrictive amendment in that Stipulation: “However, Applicant may still transport passengers from, to or between Denver International Airport (“DIA”). Applicant also may transport passengers from, to or between any restaurants, hotels or motels that are within 10 miles in any direction of the boundaries of DIA.”

37. The third Motion requests that all remaining interventions be dismissed and that the proposed restrictive amendments set forth therein be approved.

B. Proposed Amendments to Application.

38. Combined, the November 19 Stipulation, the Second November 19 Stipulation, the November 20 Stipulation, and the third Motion seek to amend the Application to seek the following authority:

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;
- (4) To the use of vehicles with a capacity of not less than six passengers;
- (5) Transportation of passengers between points within a twelve (12) mile radius of the intersection of U.S. Highways 34 and 36 in Estes Park, Colorado, is restricted to service provided pursuant to a written charter agreement which also includes transportation of those same passengers from a point outside of the above described radial area to a point within that area;
- (6) Against transportation to and/or from the facilities of YMCA of the Rockies, located in Larimer County, Colorado;
- (7) Transportation of passengers between points in the cities of Central City and/or Blackhawk, Colorado is restricted to service provided pursuant to a written charter agreement which also includes transportation of those same passengers from a point outside of those cities to a point within one of them;
- (8) Against contracting directly with the municipal entities of the City of Black Hawk and City of Central City for the provision of transportation services directly to those municipalities in their role as government entities;
- (9) Transportation of traffic to and/or from Boulder County, Colorado is restricted to transportation to and/or from the City of Boulder, Colorado; and
- (10) Against the transportation of passengers for, to or between points east of a line drawn north and south through the intersection of U.S. Highways 34 and 85 in Greeley, Colorado, and north of Interstate 70 and east of the above-described line. However, Applicant may provide transportation services from, to or between Denver International Airport ("DIA"). Applicant may also transport passengers from, to or between any restaurants, hotels or motels that are within 10 miles in any direction of the boundaries of DIA.

39. 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.

40. The ALJ has made minor and non-substantive changes to the proposed amendments.² The ALJ finds and concludes that, as modified, the proposed amendments are restrictive in nature, administratively enforceable, and clear and understandable. For good cause shown, the restrictive amendments proposed by the November 20 Stipulation, the November 19 Stipulation, and the Second November 19 Stipulation as amended by the third Motion will be accepted. The authority sought (as stated in the notice and the Application) will be amended to conform to the restrictive amendments described in ¶ 38 above.

C. Dismissal of Interveners.

41. Because the ALJ has accepted the restrictive amendments proposed by the November 19 Stipulation, the Second November 19 Stipulation as modified by the third Motion, as well as the November 20 Stipulation, Estes Valley, Colorado Coach and Dashabout will be dismissed as parties, and their interventions withdrawn, as requested in the three stipulations. This leaves Magic Bus and City Cab.

² For example, the proposed amendment in the third Motion stating “However, Applicant may still transport passengers from, to or between Denver International Airport (“DIA”). Applicant also may transport passengers from, to or between any restaurants, hotels or motels that are within 10 miles in any direction of the boundaries of DIA” will be modified slightly to reflect that the permit allows the identified transportation.

42. Magic Bus and City Cab failed to appear at the November 13, 2014 hearing and the November 20, 2014 hearing. Neither of them have shown good cause (or any cause) for their failure to appear. Both are represented by the same counsel, Mr. Kaiser. In addition, Magic Bus and City Cab have shown a history of failing to participate in this proceeding. In addition to failing to appear at the prehearing conference, neither Magic Bus nor City Cab filed exhibit and witness lists or exhibits as required by Decision No. 14A-0837-I. In fact, the last filing either of them made was on July 22, 2014, a response to the ALJ's order requiring them to show cause why they should not be dismissed as parties for their failure to appear at the prehearing conference.

43. The record shows that Magic Bus and City Cab are registered filers with the Commission's E-Filing System. The certificates of service generated by the Commission's E-Filing System for all Decisions scheduling the November 13 and 20 hearings in this matter (Decision Nos. R14-1275-I and R14-0837-I) show that the Decisions were served upon Magic Bus and City Cab through the Commission's E-filing System. The ALJ finds and concludes that notice of the hearing scheduled for November 13 and 20, 2014 were properly served on City Cab and Magic Bus through the Commission's E-Filing System pursuant to Rule 1205(b), 4 CCR 723-1.

44. Magic Bus and City Cab's failure to appear at the hearing, notice of which was properly given, constitutes a failure to prosecute their interventions, warranting dismissal of Magic Bus and City Cab as parties, and striking their interventions. *See Rathbun v. Sparks*, 425 P.2d 296, 298-99 (1967) (plaintiff's failure to prosecute case with reasonable diligence warrants its dismissal). Their failure to participate in these proceedings further warrants dismissal of them as parties.

45. As the ALJ found during the November 20, 2014 hearing, the interventions filed by Magic Bus and City Cab's intervention will be stricken, and they will be dismissed as parties for failing to prosecute their interventions

46. With the dismissal of Magic Bus, City Cab, Estes Valley, Colorado Coach, and Dashabout, the amended Application is unopposed.

D. The Application.

47. Because it is unopposed, the amended Application may be considered through a modified procedure, without a hearing. § 40-6-109(5), C.R.S., and Rule 1403, 4 CCR 723-1.

48. As amended pursuant to all stipulations, the Application now seeks a certificate of public convenience and necessity to operate as a common carrier as set forth in ¶ 38 above. The ALJ finds that the Application and its supporting documentation demonstrate good cause to grant the requested authority. The Application establishes that Applicant is familiar with the Rules Regulating Transportation by Motor Vehicle, 4 CCR 723-6, and agrees to be bound by and to comply with, those Rules. The Application and its supporting documentation establish that Applicant has or will have sufficient equipment with which to render the proposed service, and is financially, operationally, and managerially fit to perform the proposed service. In addition, the Application and supporting documents establish that the present or future public convenience and necessity requires, or will require the transportation service as requested. Therefore, because the Applicant is fit, financially and otherwise, to perform the proposed service and because the other prerequisites have been met, the permit should be granted. For the foregoing reasons, the permit should be granted.

49. In accordance with § 40-6-109, C.R.S., the ALJ now transmits the record in this proceeding, and recommends the Commission enter the below order.

II. ORDER

A. The Commission Orders That:

1. The “Motion for Approval of Restrictive Amendments and Motion for Dismissal of All Interventions” and the “First Revised Motion for Approval of Restrictive Amendments and Dismissal of Interventions” are denied as moot.

2. The amendments to the Application for a Certificate of Public Convenience and Necessity to Operate as a Common Carrier by Motor Vehicle for Hire proposed by Pikes Peak SATCOM, Inc., doing business as New Intercontinental Express (Applicant) through the stipulations discussed above are approved. The Application and notice are amended as set forth in ¶ 38 above.

3. Applicant is granted a Certificate of Public Convenience and Necessity 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 Certificate 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;
- (4) To the use of vehicles with a capacity of not less than six passengers;
- (5) Transportation of passengers between points within a twelve (12) mile radius of the intersection of U.S. Highways 34 and 36 in Estes Park, Colorado, is restricted to service provided pursuant to a written charter agreement which also includes transportation of those same passengers from a point outside of the above described radial area to a point within that area;
- (6) Against transportation to and/or from the facilities of YMCA of the Rockies, located in Larimer County, Colorado;
- (7) Transportation of passengers between points in the cities of Central City and/or Blackhawk, Colorado is restricted to service provided pursuant to a written charter agreement which also includes transportation of those same passengers from a point outside of those cities to a point within one of them;
- (8) Against contracting directly with the municipal entities of the City of Black Hawk and City of Central City for the provision of transportation services directly to those municipalities in their role as government entities;
- (9) Transportation of traffic to and/or from Boulder County, Colorado is restricted to transportation to and/or from the City of Boulder, Colorado; and
- (10) Against the transportation of passengers for, to or between points east of a line drawn north and south through the intersection of U.S. Highways 34 and 85 in Greeley, Colorado, and north of Interstate 70 and east of the above-described line, except that this Certificate allows transportation services from, to or between Denver International Airport ("DIA"), and from, to or between any restaurants, hotels or motels that are within 10 miles in any direction of the boundaries of DIA.

4. Pursuant to the stipulations discussed herein, the interventions filed by Colorado Coach Transportation, LLC, Estes Valley Transport, Inc, and Valera Lea Holtorf, doing business as Dashabout Shuttle Company and Roadrunner Express, are withdrawn, and those interveners are dismissed as parties to this proceeding.

5. The interventions filed by City Cab Co. and Magic Bus, LLC are stricken; both interveners are dismissed as parties to this proceeding.

6. The withdrawal of interventions filed by Hy-Mountain Transportation, MT Acquisitions LLC, doing business as Mountains Taxi, Ramblin' Express Inc., and Colorado Springs Shuttle, LLC are acknowledged. Each of them are dismissed as parties to this proceeding.

7. Applicant shall operate in accordance with all applicable Colorado laws and Commission rules. All operations under the permit granted shall be strictly common carrier operations.

8. Applicant shall not commence the operations under the permit until it has complied with the requirements of Colorado laws and Commission rules, including without limitation:

- (a) causing proof of insurance (Form E or self-insurance) or surety bond (Form G) coverage to be filed with the Commission;
- (b) paying to the Commission, the motor vehicle fee (\$5) for each vehicle to be operated under authority granted by the Commission, or in lieu thereof, paid the fee for such vehicle(s) pursuant to the Unified Carrier Registration Agreement;

- (c) having an effective tariff on file with the Commission. Applicant shall file an advice letter and tariff on not less than ten days' notice. The advice letter and tariff shall be filed as a new Advice Letter proceeding and shall comply with all applicable rules. In calculating the proposed effective date, the date received at the Commission is not included in the notice period and the entire notice period must expire prior to the effective date. (Additional tariff information can be found on the Commission's website at dora.colorado.gov/puc and by following the transportation common and contract carrier links to tariffs); and
- (d) paying the applicable issuance fee (\$5).

9. If Applicant does not cause proof of insurance or surety bond to be filed, pay the appropriate motor vehicle fees, file an advice letter and proposed tariff, and pay the issuance fee within 60 days of the effective date of this Decision, then the grant of the operations under the Permit shall be void. For good cause shown, the Commission may grant additional time for compliance if the request for additional time is filed within 60 days of the effective date of this Decision.

10. The Commission will notify Applicant in writing when the Commission's records demonstrate compliance with Ordering Paragraph 6.

11. 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.

12. As provided by § 40-6-106, 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 recommended 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 a basic finding 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.

13. If exceptions to this Recommended 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)



ATTEST: A TRUE COPY

Doug Dean,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

MELODY MIRBABA

Administrative Law Judge