

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 19A-0233CP

IN THE MATTER OF THE APPLICATION OF GET2VAIL CORP 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
STEVEN H. DENMAN
ADDRESSING REPRESENTATION,
SCHEDULING A HEARING, AND
ADOPTING A PROCEDURAL SCHEDULE**

Mailed Date: July 9, 2019

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I. STATEMENT

A. Procedural History

1. On May 6, 2019, Applicant Get2Vail Corp filed the above-captioned application for a Certificate of Public Convenience and Necessity to operate as a common carrier by motor vehicle for hire (Application) and commenced this proceeding. Applicant did not file direct

testimony, a list of witnesses, detailed summaries of testimony, or copies of exhibits with its Application.¹

2. On May 13, 2019, Applicant filed an Amendment to the Application in order to clarify the scope of the proposed authority.

3. The Commission gave notice of the filing of the Application on May 20, 2019, noting that the Application was:

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

passengers in call-and-demand shuttle service:

- (I) between Denver International Airport, on the one hand, and all points within the Town of Aspen, the Town of Avon, the Town of Vail, or Edwards, State of Colorado, on the other hand; and
- (II) between Eagle County Regional Airport, on the one hand, and all points within the Town of Aspen, the Town of Avon, the Town of Vail, or Edwards, State of Colorado, on the other hand.

4. On June 18, 2019, Hy-Mountain Transportation, Inc., doing business as High Mountain Taxi (High Mountain or Intervenor), by and through its counsel, filed its Entry of Appearance and Intervention (Intervention). The Intervention asserts that the operating rights sought by Applicant would partially overlap the rights granted to High Mountain in Certificate PUC No. 14114, which was attached to the Intervention. Therefore, Intervenor concludes that it has a legally protected right in the subject matter of this proceeding, which would be affected if the Application would be granted. High Mountain argues that the Application should be denied.

¹ Pursuant to § 40-6-109.5(2), C.R.S., therefore, the Commission's decision in this proceeding shall be issued no later than 210 days after the Application was deemed complete, or no later than January 22, 2020.

5. Intervenor alleges that the authority sought partially overlaps its authority, and Item VI of Certificate PUC No. 14114 grants authority to High Mountain for:

Transportation of

passengers, in call-and-demand limousine service,

between all points within a 15-mile radius of the intersection of Main Street and Galena Street in Aspen, Colorado, on the one hand, and all points in the State of Colorado outside of a 55-mile radius of the intersection of U.S. Highway 6 and Colorado State Highway 82 in Glenwood Springs, Colorado, on the other hand.

As relevant to this proceeding, Item VI is restricted “(A) to the use of vehicles having a maximum capacity of 12 persons, including the driver....” Item VI appears to be the portion of the Application that High Mountain believes overlaps its authority. The Administrative Law Judge (ALJ) finds that High Mountain is an intervenor by right and a Party to this proceeding.

6. Get2Vail Corp and High Mountain are the Parties to this proceeding.

7. On June 26, 2019, the Commission deemed the Application complete and referred it to an ALJ for disposition. This proceeding was subsequently assigned to the undersigned ALJ.

8. On June 28, 2019, High Mountain filed a document entitled “Intervenor’s Exhibit and Witness Summary.”

B. Representation of Get2Vail Corp

9. Serghei Timinschi signed the Application on behalf of Get2Vail Corp. In the Application filed on May 6, 2019, Get2Vail Corp states that: (a) it does not believe the amount in controversy in this proceeding exceeds \$15,000; (b) it does not have more than three owners; and (c) Mr. Timinschi is an owner of Get2Vail Corp.

10. Based on the foregoing, the undersigned ALJ finds and concludes that, under Rule 1201(a) of the Rules of Practice and Procedure, 4 *Code of Colorado Regulations* (CCR) 723-1, and § 13-1-127, C.R.S., Get2Vail Corp has established that Mr. Timinschi, who is

not an attorney licensed in Colorado, will be permitted to represent Get2Vail Corp in this proceeding. Get2Vail Corp and Mr. Timinschi are on notice that they will be bound by, and held to, the same procedural and evidentiary rules that all attorneys must follow in Commission proceedings. Mr. Timinschi and Get2Vail Corp will not be held to a lesser standard because Get2Vail Corp has chosen not to be represented by an attorney in this proceeding.

C. Hearing

11. The hearing in this matter will be scheduled for **September 24, 2019**. If any party cannot attend the hearing on this date, the party with the scheduling conflict must confer with the opposing party and file a motion to reschedule the hearing by **July 18, 2019**. The motion to reconsider shall identify the dates that all of the parties are available for a hearing between September 9, 2019 and October 2, 2019. The motion to reschedule must also identify the number of days that the parties anticipate the hearing will take.

D. Procedural Schedule

12. To facilitate the orderly and efficient litigation of this proceeding, the ALJ finds and concludes that a procedural schedule should be adopted, so that each party will have an opportunity prior to the hearing to review a summary of the anticipated testimony of each witness the other party intends to call at the hearing, and to review copies of the exhibits the other party will present at the hearing. Therefore, this Decision will order the parties to file, and to serve on each other, a list of witnesses, a summary of the testimony of each witness, and copies of the exhibits the filing party intends to present at the hearing.

13. On or before **August 2, 2019**, Get2Vail Corp will be ordered to file and serve on High Mountain: (a) a list that identifies the witnesses Get2Vail Corp intends to call at the hearing, including the last known address and telephone number of each witness; (b) a summary

of the anticipated testimony of each witness; and (c) copies of the exhibits Get2Vail Corp intends to present at the hearing.

14. On or before **August 30, 2019**, High Mountain will be ordered to file and serve on Get2Vail Corp: (a) a list that identifies the witnesses High Mountain intends to call at the hearing, including the last known address and telephone number of each witness; (b) a summary of the anticipated testimony of each witness; and (c) copies of the exhibits High Mountain intends to present at the hearing.

15. As referenced in this Decision, serving a party with any document (*e.g.*, witness lists, summaries of testimony, and copies of exhibits) means that the party is required to give the document to the other party or parties to the proceeding. Service must be accomplished pursuant to Rule 1205 of the Commission's Rules of Practice and Procedure, 4 CCR 723-1. The Commission's Rules (including Rule 1205) are available on the Commission's website (<http://www.dora.colorado.gov/puc>) and in hard copy from the Commission.

16. The ALJ expects the parties to comply with the Commission's Rules of Practice and Procedure.

17. The parties are advised and are on notice that they are each responsible for filing pleadings and other documents with the Commission. Pursuant to Rule 1204 of the Rules of Practice and Procedure, 4 CCR 723-1, a filing is made when the Commission receives the document. Thus, if a document is placed in the mail on the date on which the document is to be filed, the document is not filed with the Commission in a timely manner. Pleadings and other documents are filed with the Commission either by using the Commission's E-filings System or by filing a paper document, including the original and three copies. If you email pleadings and other documents to the Commissioners, the Director of the Commission, an ALJ, or other

employees of the Commission **you have not properly filed your pleading**, as required by Rule 1204 of the Rules of Practice and Procedure, 4 CCR 723-1.

18. All parties must establish through a certificate of service that they have served a filed document on all other parties in the proceeding. A certificate of service is a statement indicating how and when a document was served on the other party (*e.g.*, the filing was served by placing the document in the United States mail, first class postage-prepaid to an identified address on an identified date).²

19. All exhibits shall be identified by sequential numbers (*e.g.*, Exhibit 1, Exhibit 2, and Exhibit 3). Each exhibit shall include the following information: exhibit number, proceeding number, name of the witness who will testify to the exhibit's foundation, and the date of the hearing. The parties shall work together to ensure that there are no overlaps in the numbering of the exhibits.

20. Each party shall bring to the hearing an original and three copies of each exhibit it intends to introduce at the hearing. The filing of an exhibit with the Commission does not, by itself, admit an exhibit into the evidentiary record of the hearing.

21. If any exhibit is longer than two pages, the party offering the exhibit shall sequentially number each page of the exhibit.

² See Rule 1205(e), 4 CCR 723-1.

22. The parties are on notice that: (a) any witness may be prohibited from testifying, except in rebuttal, unless that witness is identified on the list of witnesses filed and served as required by this Decision; (b) any failure to provide an accurate description of the anticipated testimony of a witness may also result in an order prohibiting such witness from testifying; and (c) any exhibit may not be received in evidence, except in rebuttal, unless the exhibit was filed and served as required by this Decision.

23. Any party wishing to make an oral closing argument may do so immediately following the close of the evidence (*i.e.*, after presentation of evidence near the end of the hearing).

II. ORDER

A. It Is Ordered That:

1. A hearing in this matter shall be conducted at the following date, time, and place:

DATE: September 24, 2019

TIME: 9:00 a.m.

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

2. Applicant Get2Vail Corp has satisfied its burden of proof under Rule 1201(a) of the Rules of Practice and Procedure, 4 *Code of Colorado Regulations* 723-1, that it is entitled to proceed without an attorney. Mr. Serghei Timinschi may represent Applicant in this proceeding.

3. On or before August 2, 2019, Get2Vail Corp shall file and serve on counsel for Hy-Mountain Transportation, Inc., doing business as High Mountain Taxi (High Mountain): (a) a list that identifies the witnesses Get2Vail Corp intends to call at the hearing, including the last known address and telephone number of each witness; (b) a summary of the anticipated

testimony of each witness; and (c) copies of the exhibits Get2Vail Corp intends to present at the hearing.

4. On or before August 30, 2019, High Mountain shall file and serve on Get2Vail Corp: (a) a list that identifies the witnesses High Mountain intends to call at the hearing, including the last known address and telephone number of each witness; (b) a summary of the anticipated testimony of each witness; and (c) copies of the exhibits High Mountain intends to present at the hearing.

5. The parties shall comply with the requirements established in this Decision, and they shall make the filings as required by the procedural schedule established by this Decision.

6. This Decision shall be effective immediately.

(S E A L)



ATTEST: A TRUE COPY

Doug Dean,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

STEVEN H. DENMAN

Administrative Law Judge