

Decision No. R19-0606-I

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 19A-0188CP

IN THE MATTER OF THE APPLICATION OF KEP EXPEDITIONS LLC 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
ORDERING APPLICANT TO FILE
AMENDED APPLICATION**

Mailed Date: July 17, 2019

I. STATEMENT

1. On April 9, 2019, Kep Expeditions LLC (Applicant) filed the above-captioned application for a Certificate of Public Convenience and Necessity to operate as a common carrier by motor vehicle for hire 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.

2. The procedural history of the above-captioned proceeding is set forth in Decisions previously issued in this Proceeding and is repeated here as necessary to put this Decision into context.

3. On April 11, 2019, Applicant filed an Amendment to the application, adding a clearer statement of the proposed authority and adding a restriction that the proposed authority would be restricted to the use of vehicles with wheelchair accessibility.

4. On June 5, 2019, by Decision No. R19-0471-I, Estes Valley Transport, Inc. (Estes Valley) intervened by right.

5. Applicant and Estes Valley are the Parties to this proceeding.

6. Decision No. R19-0471-I (mailed on June 5, 2019) scheduled an evidentiary hearing for July 22 and 23, 2019 at 10:00 a.m. in a Commission Hearing Room and set deadlines for the filing of prehearing disclosures by Applicant and Estes Valley.

7. Decision No. R19-0542-I (mailed on June 20, 2019) granted Applicant an extension of time until June 24, 2019 to file its list of witnesses, detailed summaries of the testimony of its witnesses, and copies of the exhibits that it will present at hearing.

8. On June 24, 2019, Applicant filed its list of witnesses, detailed summaries of the testimony of its witnesses, and copies of the exhibits that it will present at hearing. On June 28, 2019, Estes Valley filed its list of witnesses, detailed summaries of the testimony of its witnesses, and copies of the exhibits that it will present at hearing.

9. On July 17, 2019, Applicant and Estes Valley filed a Notice of Agreed Resolution; Unopposed Motion to Vacate Hearing Date (Unopposed Motion). The Parties state that they have reached a settlement of the Amended Application, pursuant to which Applicant will submit a second amendment to its Application to add the following restrictions to its requested authority:

(1) Restricted to transportation in a vehicle containing special equipment required for the transportation of persons with disabilities.

(2) Restricted to transportation to, within, and from points of recreational and sightseeing interest.¹

¹ Unopposed Motion at 2 ¶ 4i.

After the Application is amended pursuant to the settlement, the Unopposed Motion states that Estes Valley will withdraw its objection. The Parties then jointly move to vacate the hearing.²

10. The Commission encourages the settlement of contested proceedings. Rule 1408 of the Rules of Practice and Procedure, 4 *Code of Colorado Regulations* 723-1.

11. Since implementation of the settlement is contingent on filings to be made by both Applicant and Estes Valley, the Administrative Law Judge (ALJ) will not vacate the hearing until after Applicant files the second amendment to the Application and Estes Valley withdraws its Intervention and its objection to the Application, as amended. Since the hearing is scheduled to commence at 10:00 a.m. next Monday, July 22, 2019, time is of the essence in ensuring that the Parties make the filings required by their settlement in sufficient time for the ALJ to review the filings and to enter an order vacating the hearing.

12. Therefore, Applicant will be ordered to file the second amendment to the Application required by the settlement outlined in the Unopposed Motion **no later than 5:00 p.m. on Thursday, July 18, 2019**. In this filing, Applicant must include a complete statement of the authority it seeks, including the restrictions to which it has agreed in the settlement.

13. Estes Valley will be ordered to make a filing withdrawing its Intervention and its objection to the Application, as amended, **no later than 11:00 a.m. on Friday, July 19, 2019**. The Parties shall serve each other with their respective filings.

14. Since Estes Valley joined in the Unopposed Motion, response time to the Unopposed Motion will be waived.

² Unopposed Motion, ¶¶ 4 at pages 1 and 2.

15. The ALJ will take the Unopposed Motion under advisement pending his receipt and review of the filings required by this Interim Decision. If those filings are properly made, as required by this Interim Decision, the ALJ will likely vacate the hearing.

II. ORDER

A. It Is Ordered That:

1. The Notice of Agreed Resolution; Unopposed Motion to Vacate Hearing Date (Unopposed Motion) filed by KEP Expeditions LLC (Applicant) and Estes Valley Transport, Inc. (Estes Valley) filed on July 17, 2019, shall be taken under advisement.

2. Response time to the Unopposed Motion shall be waived.

3. No later than 5:00 p.m. on Thursday, July 18, 2019, Applicant shall file the second amendment to the Application required by the settlement outlined in the Unopposed Motion. In this filing, Applicant shall include a complete statement of the authority it seeks in this Proceeding, including the restrictions to which it has agreed in the settlement.

4. No later than 11:00 a.m. on Friday, July 19, 2019, Estes Valley shall file a pleading withdrawing its Intervention and its objection to the Application, as amended.

5. This Decision is effective immediately.

(S E A L)



THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

STEVEN H. DENMAN

Administrative Law Judge

ATTEST: A TRUE COPY

A handwritten signature in cursive script that reads "Doug Dean".

Doug Dean,
Director