

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO**

PROCEEDING NO. 19A-0266CP

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IN THE MATTER OF THE APPLICATION OF TELLER GREEN TRANSPORTATION LLC  
DOING BUSINESS AS MOUNTAIN SHUTTLE FOR A CERTIFICATE OF PUBLIC  
CONVENIENCE AND NECESSITY TO OPERATE AS A COMMON CARRIER BY MOTOR  
VEHICLE FOR HIRE.

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**RECOMMENDED DECISION OF  
ADMINISTRATIVE LAW JUDGE  
CONOR F. FARLEY  
GRANTING MOTION FOR LEAVE  
TO WITHDRAW APPLICATION,  
VACATING HEARING, AND CLOSING PROCEEDING**

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Mailed Date: September 26, 2019

**I. STATEMENT**

**A. Background**

1. On May 20, 2019, Teller Green Transportation LLC, doing business as Mountain Shuttle (Mountain Shuttle) filed the application described in the caption above (Application).

2. On May 20, 2019, the Commission issued a notice of the Application.

3. On June 18, 2019, Ramblin' Express, Inc. (Ramblin') filed an Intervention.

4. On June 26, 2019, the Commission deemed the Application complete and referred it to an Administrative Law Judge (ALJ) for disposition. The proceeding was subsequently assigned to the undersigned ALJ.

5. On June 28, 2019, the ALJ issued Decision No. R19-0559-I which found and concluded that Boni J. Nims, who signed the Application, can represent Mountain Shuttle in this proceeding, scheduled the hearing for September 26, 2019, and established a procedural schedule

that established deadlines for the parties to file and serve witness and exhibit lists and marked exhibits. The deadlines for Mountain Shuttle and Ramblin' to file and serve witness and exhibit lists and copies of exhibits established in Decision No. R19-0559-I were August 2, 2019, and September 6, 2019, respectively.

6. Also on June 28, 2019, Ramblin' filed its "Exhibit and Witness Summaries" that listed Todd Holland as the sole witness that Ramblin' would present at the hearing and attached its authorities as exhibits.

7. Mountain Shuttle did not comply with the requirement in Decision No. R19-0559-I to file and serve witness and exhibit lists and copies of exhibits.

8. On September 25, 2019, Mountain Shuttle filed a letter requesting to withdraw the Application. Later on September 25, 2019, counsel for Ramblin' left a voicemail for the ALJ indicating that Ramblin' does not oppose Mountain Shuttle's request to withdraw the Application.

## **B. Analysis**

9. Under Rule 1309(d) of the Commission's Rules of Practice and Procedure, 4 *Code of Colorado Regulations* 723-1:

A party may withdraw an application or petition upon notification to the Commission and all parties prior to 45 days before the first day of hearing. Thereafter, the party shall file a motion to obtain leave of the Commission to withdraw the application or petition. In ruling on such a motion, the Commission shall consider whether good cause for withdrawal is stated and whether other parties would be prejudiced by the withdrawal.

Here, the letter filed by Mountain Shuttle is interpreted as a Motion for Leave to Withdraw the Application (Motion for Leave). In addition, the Motion for Leave states good cause to withdraw the Application and Ramblin's statement of nonopposition thereto establishes that no

prejudice would result from the withdrawal. Accordingly, the Motion for Leave shall be granted, the hearing shall be vacated, and the proceeding shall be closed.

## **II. ORDER**

### **A. The Commission Orders That:**

1. The evidentiary hearing in this proceeding scheduled for September 26, 2019 is vacated.
2. The letter filed by Teller Green Transportation LLC, doing business as Mountain Shuttle (Mountain Shuttle) on September 25, 2019 is interpreted as a Motion for Leave to Withdraw the Application and is granted.
3. The Application filed by Mountain Shuttle on May 20, 2019 for a Certificate of Public Convenience and Necessity to Operate as a Common Carrier by Motor Vehicle for Hire is withdrawn.
4. The hearing scheduled for September 26, 2019 is vacated.
5. Proceeding No. 19A-0266CP is closed.
6. 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.
7. 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 within 20 days after service, 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.

8. 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

CONOR F. FARLEY

Administrative Law Judge

ATTEST: A TRUE COPY

Doug Dean,  
Director