

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

PROCEEDING NO. 19A-0401CP

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IN THE MATTER OF THE APPLICATION OF ASPEN RIDE COMPANY FOR A  
CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE AS A  
COMMON CARRIER BY MOTOR VEHICLE FOR HIRE.

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**INTERIM DECISION OF  
ADMINISTRATIVE LAW JUDGE  
STEVEN H. DENMAN  
ADDRESSING REPRESENTATION,  
SCHEDULING HEARING, AND  
ADOPTING PROCEDURAL SCHEDULE  
FOR FILING PREHEARING DISCLOSURES**

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Mailed Date: October 4, 2019

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**I. STATEMENT**

**A. Procedural History**

1. On July 18, 2019, Aspen Ride Company (Aspen Ride or 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 (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.<sup>1</sup>

2. On July 25, 2019, Commission Staff emailed a Deficiency Letter to Aspen Ride, advising that the description in the Application of the authority sought was not clear and requesting that Applicant amend the Application within ten days, or no later than Monday, August 5, 2019.

3. On August 5, 2019, Applicant filed its first Amendment to the Application in order to clarify the scope of the proposed authority.

4. The Commission gave Notice of the filing of the Application on August 12, 2019, noting that the Application was:

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

passengers:

(I) in call-and-demand taxi, shuttle, charter, and sightseeing service

between all points within a 10-mile radius of State Highway 82 from its intersection with State Highway 133 in Carbondale, Colorado and its intersection with West Lupine Drive in Aspen, Colorado; and,

(II) in scheduled service

between all points within Aspen, State of Colorado, on the one hand, and Denver International Airport, Denver, Colorado, on the other hand.

Intervention pleadings were required to be filed within 30 days of the date of the Notice, or no later than September 11, 2019.

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<sup>1</sup> Pursuant to § 40-6-109.5(2), C.R.S. (2019), 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 April 15, 2020.

5. On August 19, 2019, Hy-Mountain Transportation, Inc., doing business as High Mountain Taxi (High Mountain), by and through its counsel, filed its Entry of Appearance and Intervention (High Mountain's Intervention). High Mountain's Intervention asserts that the operating rights sought by Applicant would overlap the rights granted to High Mountain in Certificate PUC No. 14114, which was attached to High Mountain's Intervention. Therefore, High Mountain concludes that it has a legally protected right in the subject matter of this proceeding, which would be affected if the Application were to be granted. High Mountain argues that the Application should be denied for seven specific reasons.<sup>2</sup> High Mountain is an intervenor by right and a Party to this proceeding.

6. Also on August 19, 2019, High Mountain filed a pleading entitled "Intervenor's Exhibit and Witness Summary," which identified one witness and listed points about which he may testify and provided a copy of Certificate PUC No. 14114 as an exhibit.

7. On September 4, 2019, Jerry's Valley Taxi, LLC, doing business as Valley Taxi of Glenwood Springs, LLC, doing business as Valley Taxi (Valley Taxi), by and through its counsel, filed its Entry of Appearance and Petition for Intervention (Valley Taxi's Intervention). Valley Taxi's Intervention asserts that the operating rights sought by Applicant would overlap the rights granted to Valley Taxi in Certificate PUC No. L55723, which was attached to Valley Taxi's Intervention. Therefore, Valley Taxi concludes that it has a legally protected right in the subject matter of this proceeding, which would be affected if the Application were to be granted. Valley Taxi requests a hearing and argues that the Application should be denied for five specific

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<sup>2</sup> High Mountain's Intervention, at pages 1 and 2.

reasons.<sup>3</sup> Since Valley Taxi is an intervenor by right, it is unnecessary to discuss its alternative request for permissive intervention. Valley Taxi a Party to this proceeding.

8. Aspen Ride, High Mountain, and Valley Taxi are the Parties to this proceeding. Collectively, High Mountain and Valley Taxi may be referred to as the Intervenors.

9. On September 18, 2019, the Commission deemed the Application complete and referred it to an Administrative Law Judge (ALJ) for disposition. The undersigned ALJ was subsequently assigned to preside over this proceeding.

10. Later on September 18, 2019, Applicant filed its second Amendment to the Application in order to limit the scope of the proposed authority even further. As amended, the Application now requests the following authority:

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

passengers in scheduled service

between all points within Aspen, State of Colorado, on the one hand, and Denver International Airport, Denver, Colorado, on the other hand.

11. No further pleadings have been filed by the Intervenors as a result of Aspen Ride's second Amendment to the Application and restriction on the scope of the authority Applicant now seeks.

**B. Representation of Aspen Ride**

12. Gregory Larson signed the Application on behalf of Aspen Ride and wishes to represent Aspen Ride in this proceeding.

13. Rule 1201(a) of the Rules of Practice and Procedure, 4 *Code of Colorado Regulations* (CCR) 723-1, requires a party in a proceeding before the Commission to be

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<sup>3</sup> Valley Taxi's Intervention, at pages 2 through 4.

represented by an attorney authorized to practice law in the State of Colorado, except that, pursuant to Rule 1201(b), 4 CCR 723-1, an individual may appear without an attorney: (a) to represent her/his own interests; or (b) to represent the interests of a closely-held entity, as provided in § 13-1-127, C.R.S. This requirement is mandatory and a non-attorney may not represent a party in Commission adjudicative proceedings. If a party does not meet the criteria of this Rule, a filing made by non-attorneys on behalf of that party is void and of no legal effect.

14. This matter is an adjudicative proceeding before the Commission.

15. In order to proceed in this matter without an attorney, Aspen Ride has the burden to prove that it is entitled to proceed in this case without an attorney. To meet that burden of proof, a party must do the following: **First**, a party must establish that it is a closely-held entity. This means that a party must establish that it has “no more than three owners.” Section 13-1-127(1)(a), C.R.S. **Second**, a party must demonstrate that it meets the requirements of § 13-1-127(2), C.R.S. That statute provides that an officer<sup>4</sup> may represent a closely-held entity before an administrative agency if **both** of the following conditions are met: (a) the amount in controversy does not exceed \$15,000; **and** (b) the officer provides the administrative agency with evidence, satisfactory to the agency, of the authority of the officer to represent the closely-held entity.<sup>5</sup>

16. In the Application filed on July 18, 2019, Aspen Ride states that: (a) it is a corporation, and it does not have more than three owners; (b); the amount in controversy in this

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<sup>4</sup> Section 13-1-127(1)(i), C.R.S., defines “Officer” as “a person generally or specifically authorized by an entity to take any action contemplated by” § 13-1-127, C.R.S.

<sup>5</sup> As pertinent here, § 13-1-127(2.3), C.R.S., states that an officer of a corporation “shall be presumed to have the authority to appear on behalf of the closely held entity upon providing evidence of the person’s holding the specified office or status[.]”

proceeding does not exceed \$15,000; (c) Mr. Larson is the President of Aspen Ride; and (d) Mr. Larson wishes to represent Aspen Ride.<sup>6</sup>

17. Based on the foregoing, the undersigned ALJ finds and concludes that, under Rule 1201(a) of the Rules of Practice and Procedure, 4 CCR 723-1, and § 13-1-127, C.R.S., Aspen Ride has established that Mr. Larson, who is not an attorney licensed in Colorado, should be permitted to represent Aspen Ride in this proceeding.

18. Aspen Ride may retain counsel to represent its interests in this proceeding. If Aspen Ride retains counsel, its counsel shall file an entry of appearance and serve the same on counsel for the Intervenors no later than **October 15, 2019**.

19. **Aspen Ride and Mr. Larson 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. Larson and Aspen Ride will not be held to a lesser standard because Aspen Ride has chosen not to be represented by an attorney in this proceeding.**

### **C. Hearing**

20. In the Application, Aspen Ride requests that, if the Application is set for hearing, the hearing be held in Denver, Colorado.<sup>7</sup> The hearing in this matter will be scheduled for **November 21 and 22, 2019** in a Commission hearing room. If any party cannot attend the hearing on this date, the party with the scheduling conflict must confer with the opposing parties and file a motion to reschedule the hearing no later than **October 15, 2019**. The motion to reschedule the hearing shall identify the dates that all of the parties and counsel are available for

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<sup>6</sup> Application, Paragraph No. 21 at page 7.

<sup>7</sup> Application, Paragraph No. 18 at page 6.

a hearing between November 8, 2019 and December 20, 2019. The motion to reschedule must also identify the number of days that the parties anticipate will be needed for the hearing.

**D. Procedural Schedule**

21. 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 (or counsel), a list of their witnesses, a written summary of the testimony of each witness, and copies of the exhibits the filing party intends to present at the hearing.

22. On or before **October 18, 2019**, Aspen Ride will be ordered to file and serve on counsel for each Intervenor: (a) a list that identifies the witnesses Aspen Ride 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 Aspen Ride intends to present at the hearing.

23. On or before **November 8, 2019**, the Intervenor will be ordered to file and serve on Aspen Ride (and its counsel if one has been retained): (a) a list that identifies the witnesses each Intervenor intends to call at the hearing, including the last known address and telephone number of each witness; (b) a written summary of the anticipated testimony of each witness; and (c) copies of the exhibits each Intervenor intends to present at the hearing.

**E. Procedural Advisements. (Please read and understand these advisements.)**

24. 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.

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

26. 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.

27. 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).<sup>8</sup>

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<sup>8</sup> See Rule 1205(e), 4 CCR 723-1.



28. 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.

29. Each party shall bring to the hearing an original and three hard 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.

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

31. 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 summary 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.

32. 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:

DATES: November 21 and 22, 2019

TIME: 9:30 a.m.

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

2. Applicant Aspen Ride Company (Aspen Ride) 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. Gregory Larson may represent Aspen Ride in this proceeding.

3. Should Aspen Ride decide to retain counsel to represent its interests in this proceeding, Aspen Ride's counsel, shall file an entry of appearance and serve the same on counsel for the Intervenor no later than October 15, 2019.

4. On or before October 18, 2019, Aspen Ride shall file and serve on counsel for Hy-Mountain Transportation, Inc., doing business as High Mountain Taxi (High Mountain) and counsel for Jerry's Valley Taxi, LLC, doing business as Valley Taxi of Glenwood Springs, LLC, doing business as Valley Taxi (Valley Taxi): (a) a list that identifies the witnesses Aspen Ride intends to call at the hearing, including the last known address and telephone number of each witness; (b) a written summary of the anticipated testimony of each witness; and (c) copies of the exhibits Aspen Ride intends to present at the hearing.

5. On or before November 8, 2019, High Mountain and Valley Taxi shall each file and serve on Aspen Ride (and its counsel if one has been retained): (a) a list that identifies the

witnesses each Intervenor intends to call at the hearing, including the last known address and telephone number of each witness; (b) a written summary of the anticipated testimony of each witness; and (c) copies of the exhibits each Intervenor intends to present at the hearing.

6. 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.

7. This Decision shall be 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