

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 19A-0401CP

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.

**INTERIM DECISION OF
ADMINISTRATIVE LAW JUDGE
STEVEN H. DENMAN
ACCEPTING SECOND AMENDMENT TO THE
APPLICATION, ACKNOWLEDGING WITHDRAWAL
OF HIGH MOUNTAIN'S INTERVENTION,
AND REQUIRING FILING BY VALLEY TAXI**

Mailed Date: November 7, 2019

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.¹

2. The procedural history of the above captioned proceeding is set forth in Decision No. R19-0821-I (mailed on October 4, 2019) and is repeated here as necessary to put this Interim Decision into context.

¹ 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.

3. The Commission gave Notice of the filing of the Application on August 12, 2019,² 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.

4. 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 asserted 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 High Mountain's Intervention. The partial overlap about which High Mountain was concerned related to taxi service authority in and around the cities of Glenwood Springs and Aspen and, subject to specific restrictions, as described in detail in Certificate PUC No. 14114. High Mountain concluded that it has a legally protected right in the subject matter of this proceeding, which would be affected if the

² On August 5, 2019, Aspen Ride filed its first Amendment to the Application in order to clarify the scope of the proposed authority.

Application were to be granted.³ Decision No. R19-0821-I found that High Mountain is an intervenor by right and a Party to this proceeding.⁴

5. 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 an Entry of Appearance and Petition for Intervention (Valley Taxi's Intervention). Valley Taxi's Intervention asserted that the operating rights sought by Applicant would partially overlap the rights granted to Valley Taxi in Certificate PUC No. L55723:

The operating rights sought by Applicant would partially overlap the authority and service of Intervenor. **In particular, the Applicant's proposed territory includes "all points within a 10-mile radius of State Highway 82 from its intersection with State Highway 133 in Carbondale, Colorado ..." The direct distance between this intersection and Glenwood Springs is approximately 10 miles. Glenwood Springs is in the center of Intervenor's territory. In short, the Applicant would be authorized to operate in approximately 60 percent of Intervenor's territory.** (Original emphasis.)⁵

Valley Taxi concluded 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 requested a hearing.⁶ Decision No. R19-0821-I found that Valley Taxi is an intervenor by right and a Party to this proceeding.

6. 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.

³ High Mountain's Intervention, at pages 1 and 2.

⁴ On August 19, 2019, High Mountain also filed "Intervenor's Exhibit and Witness Summary," which identified one witness, listed points about which he may testify, and provided a copy of Certificate PUC No. 14114 as an exhibit.

⁵ Valley Taxi's Intervention, ¶ 6(a) at page 3.

⁶ Valley Taxi's Intervention, at pages 2 through 4. Certificate PUC No. L55723 was attached to Valley Taxi's Intervention as Exhibit 2.

7. Also on September 18, 2019, Applicant filed its Second Amendment to the Application in order to remove Paragraph I of the proposed authority, which proposed to transport passengers in call-and-demand taxi, shuttle, charter, and sightseeing services. 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.

8. By Decision No. R19-0821-I, issued on October 4, 2019, the ALJ scheduled an evidentiary hearing on the amended Application for November 21 and 22, 2019 at 9:30 a.m. in a Commission hearing room; set a procedural schedule for each party to file prehearing disclosures (*i.e.* lists of their witnesses, written summaries of the testimony of each witness, and copies of hearing exhibits); and advised the parties of procedural requirements.

B. High Mountain's Withdrawal of its Intervention.

9. Apparently recognizing that the Second Amendment to the Application removed his concern about the partial overlap with Certificate PUC No. 14114, on October 30, 2019, counsel for High Mountain sent the following email to the ALJ:

The amendment filed by Applicant satisfies the interest of Hy Mountain Transportation. If the amendment is accepted by the Public Utilities [Commission,] Hy Mountain Transportation withdraws its Intervention.⁷

⁷ Correspondence from Charles J. Kimball, counsel for High Mountain, to ALJ Steven Denman, time-stamped at 2:50 p.m. on October 30, 2019, which has been filed in this proceeding as Withdrawal of Intervention. By "amendment," Mr. Kimball meant the Second Amendment filed by Aspen Rides on September 18, 2019.

10. After reviewing High Mountain's Intervention, Certificate PUC No. 14114, and the Application as amended, the ALJ agrees that the Second Amendment removes the partial overlap about which High Mountain was concerned and which prompted its intervention. The ALJ will accept the Second Amendment to the Application. With that acceptance, the ALJ will deem High Mountain's intervention to be withdrawn.

11. Aspen Ride and Valley Taxi are now the only Parties to this proceeding.

12. After reviewing Valley Taxi's Intervention, Certificate PUC No. L55723, and the Application as amended, the ALJ requires additional information from Valley Taxi. The ALJ will order Valley Taxi to answer the following questions:

- a. Does the Second Amendment to the Application remove the partial overlap with its authority in Certificate PUC No. L55723, as identified in Valley Taxi's Intervention, and its concerns with the Application that prompted Valley Taxi to intervene?
- b. Does Valley Taxi intend to withdraw, or to pursue to hearing, its intervention now that the ALJ has accepted the Second Amendment to the Application?

13. Valley Taxi will be ordered to file a pleading answering the foregoing questions no later than 5:00 p.m. Mountain Time on November 12, 2019.

14. In formulating these questions for Valley Taxi, the ALJ has observed that Certificate PUC No. L55723 grants authority to Valley Taxi, subject to specified restrictions not relevant to this proceeding, for the:

Transportation of
passengers in taxi service:

- (I) Between all points within a 10-mile radius of the intersection of Colorado Highway 82 and Interstate 70 in Glenwood Springs, Colorado, and between

said points, on the one hand, and all points in the State of Colorado, on the other hand;⁸ and

- (II) Between all points within a 20-mile radius of Exit 90 on Interstate 70, and between said points, on the one hand, and all points in the State of Colorado, on the other hand.⁹

15. Significantly, Certificate PUC No. L55723 does not authorize Valley Taxi to transport passengers in scheduled service, nor does it authorize Valley Taxi to transport passengers in taxi service originating in Aspen, Colorado, nor does it authorize Valley Taxi to transport passengers to Denver International Airport from any location in Colorado.

16. The ALJ has issued this Order pursuant to § 40-6-101(1), C.R.S., which requires the Commission to conduct its proceedings in a manner “as will best conduce the proper dispatch of business and the ends of justice.”

II. ORDER

A. It Is Ordered That:

1. The Second Amendment to the July 18, 2019 application of Aspen Ride Company (Aspen Ride) for a Certificate of Public Convenience and Necessity to Operate as a Common Carrier by Motor Vehicle for Hire (Application), which Second Amendment was filed by Aspen

⁸ According to Google Maps, the distance between Glenwood Springs and Aspen is approximately 41 miles, via Colorado Highway 82. See <https://www.google.com/maps/dir/Glenwood+Springs,+CO/Aspen,+CO/@39.3706698,-107.3526515,10z/data=!3m1!4b1!4m1!4m1!3m1!1s0x87410997341f7af9:0x8c7e59134c611125!2m2!1d-107.3247762!2d39.5505376!1m5!1m1!1s0x8740397cf7413c7d:0xc12b42dc782cf672!2m2!1d-106.8175387!2d39.1910983!3e0>.

⁹ Exit 90 on Interstate 70 is located at the interchange of Interstate 70 and Colorado Highway 13 North, near Rifle, Colorado, (see <https://www.google.com/maps/@39.5260785,-107.8019027,12z>), 27 miles west of Glenwood Springs.

Ride on September 18, 2019, shall be accepted. The Application, as amended, 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.

2. Pursuant to correspondence to the Administrative Law Judge (ALJ), dated October 30, 2019, from counsel for Hy-Mountain Transportation, Inc., doing business as High Mountain Taxi (High Mountain), the Intervention of High Mountain is deemed to be, and hereby is, withdrawn.

3. On or before 4:00 p.m. Mountain Time on November 12, 2019, Jerry's Valley Taxi, LLC, doing business as Valley Taxi of Glenwood Springs, LLC, doing business as Valley Taxi (Valley Taxi) shall file, and shall serve on Aspen Ride and counsel for High Mountain, a pleading answering the following questions:

- a. Does the Second Amendment to the Application remove the partial overlap with its authority in Certificate PUC No. L55723, as identified in Valley Taxi's Intervention, and its concerns with the Application that prompted Valley Taxi to intervene?
- b. Does Valley Taxi intend to withdraw, or to pursue to hearing, its intervention now that the ALJ has accepted the Second Amendment to the Application?

4. 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