

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 19A-0742CP

IN THE MATTER OF THE APPLICATION OF ARROWHEAD TAXI 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
SCHEDULING HEARING, AND
ADOPTING PROCEDURAL SCHEDULE
FOR FILING PREHEARING DISCLOSURES**

Mailed Date: March 10, 2020

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I. STATEMENT

A. Procedural History

1. On December 30, 2019, Arrowhead Taxi LLC (Arrowhead) filed an Application for a Certificate of Public Convenience and Necessity to Operate as a Common Carrier by Motor Vehicle for Hire (Application). That filing commenced this proceeding.

2. On January 6, 2020, the Commission issued its Notice of Application Filed (Notice). As originally noticed, 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 taxi service

between all points in Garfield County, State of Colorado; and between said points, on the one hand, and the Grand Junction Regional Airport, the Eagle County Regional Airport, the Aspen/Pitkin County Airport, or the Denver International Airport, on the other hand.

3. The 30-day intervention deadline set by the Notice expired on February 5, 2020. Arrowhead did not file testimony and exhibits with its Application and, therefore, seeks a Commission decision within 210 days, or no later than September 10, 2020.¹

4. During the Commission's weekly meeting held February 13, 2020, 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.

5. On January 31, 2020, Jerry's Valley Taxi, LLC, doing business as Valley Taxi of Glenwood Springs, LLC, doing business as Valley Taxi (Valley Taxi), by and through counsel, filed its Entry of Appearance and Petition for Intervention (Intervention). Valley Taxi's Certificate PUC No. L55723 was attached to the Intervention as Exhibit 2.

6. The procedural history of the above-captioned proceeding is set forth in Decision No. R20-0125-I (mailed on February 25, 2020) and is repeated here as necessary to put this Decision into context.

¹ See § 40-6-109.5(2), C.R.S.

7. Decision No. R20-0125-I acknowledged Valley Taxi's intervention by right. Arrowhead and Valley Taxi are the Parties to this proceeding.

B. Representation.

8. Decision No. R20-0125-I found that the Application satisfactorily established that Arrowhead is entitled to proceed without an attorney, pursuant to Rule 1201(b)(II) of the Commission's Rules of Practice and Procedure, 4 *Code of Colorado Regulations* 723-1 (2015) and that Ronald V. Carl, the Owner, may represent Arrowhead in this proceeding.² However, since legal counsel represents Valley Taxi, the Decision cautioned Arrowhead that it had until March 6, 2020 to retain legal counsel and for its counsel to enter his/her appearance.³

9. No counsel for Arrowhead filed an entry of appearance by March 6, 2020, so the ALJ concludes that Arrowhead chose not to retain counsel. Therefore, the ALJ repeats here his advisement to Mr. Carl:

If Arrowhead does not retain counsel, Arrowhead and Mr. Carl are advised and 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. Carl and Arrowhead will not be held to a lesser standard because Arrowhead has chosen not to be represented by an attorney in this proceeding. (Emphasis in the original.)⁴

C. Scheduling the Hearing and Adopting the Procedural Schedule.

10. Decision No. R20-0125-I directed Arrowhead to confer with counsel for Valley Taxi regarding two sets of consecutive hearing dates when the Parties and their witnesses will be available during the weeks of May 4, 2020; May 11, 2020; or May 18, 2020, and to file a Joint Status Report, no later than March 6, 2020, informing the ALJ of the results of their conferral.⁵

² Decision No. R20-0125-I, ¶ 15 at page 5.

³ Decision No. R20-0125-I, ¶ 16 at page 6.

⁴ Decision No. R20-0125-I, ¶ 17 at page 6.

⁵ Decision No. R20-0125-I, ¶¶ 18 – 22 at pages 6 and 7.

11. On March 6, 2020, counsel for Valley Taxi filed the Joint Status Report. The Parties request a one-day hearing during the periods of May 5 and 6, 2020 or May 7 and 8, 2020. However, the Parties could not agree on the hearing location. Arrowhead wants to have the hearing in Rifle, Colorado, while Valley Taxi wants it to be in Glenwood Springs, Colorado. The ALJ's review of the Application reveals that most of Arrowhead's support letters are from persons in Rifle. The Parties have not yet filed witness lists and copies of exhibits to reveal how many witnesses may be from Rifle versus Glenwood Springs. The equities favor scheduling the hearing in Rifle. **The hearing will be in Rifle on May 5, 2020 commencing at 9:00 a.m.**

12. To facilitate the orderly and efficient litigation of this proceeding, the ALJ finds 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.

13. On or before **March 31, 2020**, Arrowhead will be ordered to file and to serve on counsel for Valley Taxi: (a) a list that identifies the witnesses Arrowhead 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 Arrowhead intends to present at the hearing.

14. On or before **April 21, 2020**, Valley Taxi will be ordered to file and serve on Arrowhead (and its counsel if one has been retained): (a) a list that identifies the witnesses Valley Taxi 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 Valley Taxi intends to present at the hearing.

D. Procedural Advisements.

15. The procedural advisements provided to the Parties in Decision No. R20-0125-I continue to be in force. The following advisements relate to the hearing.

16. At the hearing, exhibits shall be identified by sequential numbers (*e.g.*, Exhibit 1, Exhibit 2, and Exhibit 3); starting with Arrowhead's direct case exhibits, followed by Valley Taxi's exhibits, and ending with Arrowhead's rebuttal exhibits. 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. Before the hearing commences, the Parties shall work with the Court Reporter to mark their exhibits for identification.

17. 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 result in the exhibit being admitted into the evidentiary record of the hearing.

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

19. The Parties are on notice of the following: (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 beyond the scope of the summary; 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.

20. 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).

21. Upon request and at the discretion of the ALJ, the Parties may be allowed to file post-hearing statements of position, limited to 30 pages (excluding tables of contents and appendices).

II. ORDER

A. It Is Ordered That:

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

DATE: May 5, 2020
TIME: 9:00 a.m.
PLACE: City Council Chambers
202 Railroad Avenue
Rifle, Colorado 81650

2. On or before March 31, 2020, Arrowhead Taxi LLC (Arrowhead) shall file with the Commission and serve on 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 Arrowhead 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 Arrowhead intends to present at the hearing.

3. On or before April 21, 2020, Valley Taxi shall file with the Commission and serve on Arrowhead (and its counsel if one has been retained): (a) a list that identifies the witnesses Valley Taxi 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 Valley Taxi intends to present at the hearing.

4. 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.

5. Additional procedural requirements may be issued in future Interim Decisions.

6. 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