

Decision No. R20-0197-I

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 20A-0036CP

IN THE MATTER OF THE APPLICATION OF PEDAL THE PEAKS DURANGO 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
MELODY MIRBABA
ESTABLISHING DEADLINES AND
SCHEDULING VIDEO-CONFERENCE HEARING**

Mailed Date: March 24, 2020

I. STATEMENT, FINDINGS, AND CONCLUSIONS

1. Only the procedural history necessary to understand this Decision is included. Per Decision No. R20-0154-I, the undersigned Administrative Law Judge (ALJ) held a telephonic prehearing conference on March 18, 2020. All parties appeared.

2. During the prehearing conference, the parties agreed to the procedural schedule and hearing date as set forth below. In addition, the parties agreed that rather than holding an in-person evidentiary hearing on the above-captioned Application, the hearing should be held via video conference to allow parties and witnesses to appear from remote locations. The ALJ finds that holding a remote video-conference hearing is consistent with current public health advisories to prevent the spread of COVID-19. The ALJ concludes that it is in the parties' and the public

interest to hold the evidentiary hearing on the Application as a remote video-conference hearing. ALJ will informally email the parties the link that they must use to join the video conference hearing.¹

3. As discussed during the prehearing conference, the Commission uses Google's platform for video conferencing² to hold video conferences, and in this case, an evidentiary hearing. The parties are encouraged to familiarize themselves with this tool, as they must ensure they are capable of using it during the evidentiary hearing. Information and tutorials on the relevant Google tool available at this link may prove helpful: <https://support.google.com/a/users/answer/9282720?hl=en>. This link is only provided for the parties' convenience, and is not intended to guarantee that the information on the link is accurate or that it provides all the information the parties may need in order to use the relevant Google tool.

4. The parties are also responsible for ensuring their witnesses are able to use Google's platform for video conferencing to participate in the evidentiary hearing; in doing so, the parties must keep in mind that witnesses may need to view exhibits while they testify at the hearing.

5. This Decision reiterates and expands on requirements for the remote hearing that were discussed during the prehearing conference. It is vitally important that the parties follow all requirements in this Decision in order to facilitate holding the hearing remotely via video-conference.

¹ The ALJ will use the email addresses which the parties provided with their Commission E-Filing registration. The parties are responsible for sharing the link with their witnesses.

² This platform is part of Google's G Suite, and is commonly known as Google Hangouts Meet or Google Meet.

The parties should coordinate with each other to contact Commission Staff member Christie Nicks together on or by May 5, 2020 to test their readiness to present evidence during the hearing. The parties may reach Ms. Nicks by email at: Christie.nicks@state.co.us. Ms. Nicks is not technology support for the parties, but instead will simply facilitate a test run to allow the parties to determine whether they are ready and able to present and view evidence using Google's for platform video conferencing. The parties have discretion to invite their witnesses to participate in the test run.

II. ORDER

A. It Is Ordered That:

1. Consistent with the above discussion, a remote video-conference hearing on the merits of the above-captioned Application is scheduled as follows:

DATE: May 19, 2020

TIME: 9:00 a.m.

METHOD: Online, using Google's platform for video conferencing.
Link provided to parties by email.

2. Parties and witnesses may not appear in person at the Commission for the above-scheduled hearing. Instead, parties and witnesses will participate in the video-conference hearing remotely using a computer, consistent with the requirements of this Decision.

3. This proceeding includes confidential filings that may be at issue during the evidentiary hearing. Given that the hearing is held remotely, it will be challenging to manage confidential information presented during the hearing while webcasting the hearing. As such, the hearing will not be webcast. For the same reason, the ALJ does not include the Google link to participate in the hearing in this Decision and instead provides it informally to the parties.

4. The parties must ensure they are ready and able to participate in the video-conference hearing, and to present evidence electronically during the hearing using Google's platform for video conferencing. The parties are also responsible for ensuring their witnesses are ready and able to use Google's platform for video conferencing to participate in the evidentiary hearing. To use Google's platform for video conferencing, the parties and their witnesses must use a computer with a microphone and internet access. It is preferred, though not mandated, that parties and witnesses use computers which also have a video camera so that parties may see each other and the witnesses during the course of the hearing.

5. Parties and witnesses who have difficulty securing a computer for use during the hearing may explore whether they can use a tablet or other electronic device to participate in the hearing; in such a situation, the party is responsible for ensuring that they and their relevant witness are able to participate in the hearing using their device in the same manner as they would using a computer, consistent with this Decision's requirements.

6. **Deadlines to File and Exchange Witness Lists, Exhibit Lists, and Exhibits.** The parties must file with the Commission and serve on all parties their pre-marked exhibits, witness lists, and exhibit lists **by the close of business on April 28, 2020**. All such filings must be made through the Commission's free E-filing System on the Commission's website: <https://www.dora.state.co.us/pls/efi/EFI.homepage>.

7. **Requirements for Exhibits.** These requirements apply to all exhibits that may be used during the hearing, including those used for rebuttal or impeachment, except that nothing in this Decision requires exhibits used for rebuttal or impeachment be filed or exchanged prior to the hearing. Documents that have already been filed in this proceeding to date are not automatically an exhibit for the hearing; any party wishing to use such documents as an exhibit

must follow the requirements in this Decision to designate the documents as an exhibit and must follow all other requirements in this Decision for exhibits.

a. Pre-Mark and Page Number Exhibits. Each party must pre-mark all hearing exhibits with a hearing exhibit letter or number *before* filing and serving the exhibits. Pedal the Peaks Durango LLC (Pedal the Peaks) is assigned hearing exhibit letters A through Z, and San Miguel Mountain Ventures, LLC (San Miguel) is assigned hearing exhibit numbers 1 through 99. For example, Pedal the Peaks should pre-mark its first exhibit as “Hearing Exhibit A,” and San Miguel should mark its first exhibit as “Hearing Exhibit 1.” The parties must sequentially page-number each page of any hearing exhibit that is longer than two pages. The parties must number the first page of hearing exhibits as page 1, regardless of content.

b. Exhibits Available to Parties and Witnesses During Hearing. The parties must have all exhibits that will be used in this proceeding available to them in electronic and paper form during the hearing. Witness must have all exhibits that will be used in this proceeding available to them during the hearing in whatever form the parties chose. While exhibits used for impeachment or rebuttal need not be provided to parties and witnesses prior to the hearing, they must be available in electronic form during the hearing so they may be provided to all participants as needed during the hearing.

7. Requirements for Witness Lists. Witness lists must include a brief description of the witnesses’ anticipated testimony and the witnesses’ contact information.

8. Requirements for Exhibit Lists. Exhibit lists must include the hearing exhibit number assigned to each exhibit and a brief description of the exhibit. Any party may offer any exhibit sponsored by another party and is not required to include such an exhibit on their own exhibit list.

9. This Decision is effective immediately.

(S E A L)



THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

MELODY MIRBABA

Administrative Law Judge

ATTEST: A TRUE COPY

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

Doug Dean,
Director