

Decision No. R20-0281-I

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
VACATING HEARING, CONTINUING INTERVENOR'S
FILING DATE, AND EXTENDING DECISION DEADLINE**

Mailed Date: April 22, 2020

I. STATEMENT

A. Procedural History.

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

2. The procedural history of this proceeding is set out in previous Decisions and is repeated here as necessary to put this Decision into context.

3. 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), which holds Certificate PUC No. L55723, filed its Entry of Appearance and Petition for Intervention. Decision

¹ See § 40-6-109.5(2), C.R.S.

No. R20-0125-I (mailed on February 25, 2020) acknowledged Valley Taxi's intervention by right.

4. Arrowhead and Valley Taxi are the Parties to this proceeding. Decision No. R20-0125-I allowed Arrowhead to be represented by Ronald V. Carl, the Owner.² Valley Taxi is represented by counsel, Theodore G. Hess, Esq. of Ted Hess & Associates, LLC.

5. By Decision No. R20-0156-I (mailed on March 10, 2020), the Administrative Law Judge (ALJ) set an evidentiary hearing for May 5, 2020 at 9:00 a.m. in the City Council Chambers in Rifle, Colorado.

6. Decision No. R20-0156-I ordered that, on or before March 31, 2020, Arrowhead shall file and 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. A review of the Commission file in this Proceeding reveals that Arrowhead failed to make that filing.

7. Decision No. R20-0156-I also ordered that, on or before April 21, 2020, Valley Taxi will be ordered to file and serve on Arrowhead: (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.

² Decision No. R20-0125-I, ¶ 15 at page 5. See Rule 1201(b)(II) of the Commission's Rules of Practice and Procedure, 4 *Code of Colorado Regulations* 723-1 (2015). Mr. Carl was given the option of retaining counsel, but he did not.

8. Decision No. R20-0245-I (mailed on April 10, 2020) scheduled a remote status conference, in light of the declaration of a disaster emergency, and extension to May 8, 2020, by Colorado Governor Jared Polis in response to the presence of the coronavirus disease (COVID-19) in Colorado.³ Governor Polis has issued and extended a “stay-at-home order” for the entire State through April 26, 2020.⁴ In response, the Commission, other state agencies, and local governments have implemented numerous restrictions to slow the spread of COVID-19.⁵ The ALJ found that there is significant uncertainty as to whether these statewide restrictions may be extended before the May 5, 2020 hearing, and whether the public will continue to be at risk for contracting COVID-19 at the time of the scheduled in-person hearing. The remote status conference was scheduled for Friday, April 17, 2020 at 10:00 a.m.

9. Decision No. R20-0245-I advised the Parties that they should be prepared to discuss at the remote status conference, whether the May 5, 2020 hearing must be continued given the COVID-19 emergency orders; whether Applicant is willing to waive the statutory deadline for a final Commission decision to issue; whether circumstances exist to warrant further extension of the current September 10, 2020 statutory deadline by 130 days under § 40-6-109.5(6), C.R.S. (2019); and any other relevant matters.

10. Decision No. R20-0245-I provided instructions to the Parties about how to participate in the remote status conference by computer and by telephone. On Monday, April 13, 2020, the ALJ sent an email to Messrs. Carl and Hess with detailed log-in information for them to access the video conferencing platform or to participate by telephone.

³ Executive Order D-2020 003, issued March 11, 2020.

⁴ Executive Order D-2020 017, issued March 25, 2020; Executive Order D-2020 024, issued April 6, 2020.

⁵ For example, the building in which Commission offices are located has been closed to employees and the public for over three weeks, and Commission personnel are restricted only to essential travel.

B. The Remote Status Conference.

11. The remote status conference was held as scheduled. Mr. Carl failed to appear on behalf of Arrowhead. Mr. Hess appeared on behalf of Valley Taxi.

12. At the remote status conference, the ALJ made the following rulings, which are memorialized in this Interim Decision:

- a) the May 5, 2020 hearing; in Rifle, Colorado will be continued indefinitely, until there is more certainty regarding the Governor's and the Commission's responses to the COVID-19 pandemic and whether travel to Rifle for an in-person hearing would be possible;
- b) the April 21, 2020 due date will be continued indefinitely for Valley Taxi to file and serve on Arrowhead: (i) 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; (ii) a written summary of the anticipated testimony of each witness; and (iii) copies of the exhibits Valley Taxi intends to present at the hearing;
- c) extraordinary conditions were established, and the ALJ found that they warranted further extension of the current September 10, 2020 statutory deadline not to exceed 130 days under § 40-6-109.5(6), C.R.S. (2019); and
- d) the decision deadline under § 40-6-109.5(4), C.R.S. (2019), was extended by an additional 90 days, or until December 9, 2020.

13. Mr. Hess had no objections to any of the rulings made by the ALJ.

14. Since Mr. Carl failed to appear at the remote status conference, even though he had ample notice about the date, time, and how to participate, the ALJ found that Mr. Carl will be bound by the rulings made at the remote status conference.

II. ORDER**A. It Is Ordered That:**

1. The evidentiary hearing scheduled for May 5, 2020 at 9:00 a.m. in Rifle, Colorado, shall be and is vacated. The hearing shall be continued indefinitely, and shall not be

rescheduled until there is more certainty regarding Governor Jared Polis' and the Public Utilities Commission's responses to the COVID-19 pandemic and travel restrictions for state employees.

2. The April 21, 2020 due date shall be continued indefinitely for Jerry's Valley Taxi, LLC, doing business as Valley Taxi of Glenwood Springs, LLC, doing business as Valley Taxi (Valley Taxi) to file and serve on Arrowhead Taxi LLC: (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. Valley Taxi's due date for filing these prehearing disclosures shall be rescheduled when the hearing is rescheduled.

3. Pursuant to § 40-6-109.5(4), C.R.S. (2019), extraordinary conditions have been established in this Proceeding, to wit: the presence of the coronavirus disease (COVID-19) in Colorado and emergency orders issued by Governor Jared Polis in response to COVID-19. The decision deadline in § 40-6-109.5(2), C.R.S. (2019), shall be extended by an additional 90 days, or until December 9, 2020.

4. This Decision is 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