

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 20A-0163CP

IN THE MATTER OF THE APPLICATION OF ADVENTURE MARA INK 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
CONOR F. FARLEY
ADDRESSING REPRESENTATION, SCHEDULING
HEARING, AND SETTING PROCEDURAL SCHEDULE**

Mailed Date: July 31, 2020

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I. STATEMENT

A. Background

1. On April 13, 2020, Mara Ink LLC (Mara Ink) filed the application described in the caption above (Application).

2. On April 20, 2020, the Commission issued a notice of the Application.

3. On April 27, 2020, Ramblin' Express, Inc. (Ramblin') filed an Entry of Appearance and Intervention in this proceeding.

4. On May 20, 2020, the following entities filed interventions in this proceeding: (a) CKIMY, LLC, doing business as iLIMO (iLIMO); (b) Aspire Tours, LLC (Aspire); and (c) Ullr Tours, LLC, doing business as The Colorado Sightseer (Colorado Sightseer). Ramblin', iLIMO, Aspire, and Colorado Sightseer shall be collectively referred to as Intervenor.

5. On May 27, 2020, the Commission deemed the Application complete and referred it to an Administrative Law Judge (ALJ) for disposition. The proceeding was subsequently assigned to the undersigned ALJ.

6. On June 16, 2020, the ALJ issued Decision No. R20-0444-I that, among other things: (a) established a deadline of July 10, 2020 for Colorado Sightseer to either have legal counsel enter an appearance in this proceeding or show cause why Rule 1201 of the Commission's Rules of Practice and Procedure, 4 *Code of Colorado Regulations* (CCR) 723-1, does not require it to be represented in this proceeding by an attorney currently in good standing before the Supreme Court of the State of Colorado; (b) established a schedule for prehearing disclosures by the parties; and (c) scheduled the remote hearing in this proceeding for August 21, 2020.

7. No attorney has entered an appearance on behalf of Colorado Sightseer and Colorado Sightseer has not filed a document showing cause why Rule 1201, 4 CCR 723-1, does not require it to be represented in this proceeding by an attorney.

8. There have been several filings by Mara Ink and Ramblin' addressing restrictive amendments and putative agreements thereto by Aspire Tours and Ramblin'. The current record does not clearly reflect the restrictive amendments proposed by Mara Ink and whether Aspire Tours

and/or Ramblin' agree to withdraw their interventions if the restrictive amendments are accepted by the ALJ.

B. Intervention of Colorado Sightseer

9. As noted above, Decision No. R20-0444-I ordered Colorado Sightseer to either have legal counsel enter an appearance in this proceeding or show cause why Rule 1201, 4 CCR 723-1, does not require it to be represented in this proceeding by an attorney currently in good standing before the Supreme Court of the State of Colorado. The deadline for Colorado Sightseer to do so was July 10, 2020. Because no attorney has entered an appearance on behalf of Colorado Sightseer and Colorado Sightseer has not established that Rule 1201 does not require it to be represented in this proceeding by an attorney, Colorado Sightseer's intervention shall be dismissed.

C. Remote Prehearing Conference

10. A remote prehearing conference shall be scheduled for **August 10, 2020 at 1:00 p.m.** Due to the COVID-19 pandemic, the prehearing conference shall be a remote prehearing conference at which the participants will appear from remote locations, as provided in Attachment A. The ALJ finds that holding a remote prehearing conference 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 prehearing conference in this proceeding as a remote prehearing conference. The parties, witnesses, attorneys, and members of the public must not appear in-person for the hearing.

11. The ALJ will send an email to the parties and/or their counsel containing the URL necessary to participate in the remote prehearing conference by computer. Any party, counsel, or witness who wishes to participate in the remote prehearing conference must use a computer that is

connected to the internet and has a microphone and a speaker. Attachment A provides more extensive instructions for participating in the remote prehearing conference.

12. At the remote prehearing conference, the ALJ will discuss with the parties the proposed amendments and contingent withdrawals of interventions by Aspire Tours and Ramblin'. For example, there is a lack of clarity concerning the agreement between Mara Ink and Ramblin' about the proposed amendment. On the one hand, it appears that Mara Ink believes it has agreed with Ramblin' to delete Gilpin County and restrict its proposed authority to service provided by sport utility vehicles (SUVs) with a maximum seating capacity of *eight* passengers in return for Ramblin' withdrawing its intervention in this proceeding.¹ On the other hand, Ramblin' appears to believe that the agreement is to delete Gilpin County and restrict the proposed authority to service provided by SUVs with a maximum seating capacity of *seven* passengers.² If Mara Ink and Ramblin' file one or more signed documents that clearly clarify its agreement before the prehearing conference, there is a possibility that Ramblin' will be dismissed from the proceeding before the prehearing conference.

13. Similarly, if Aspire Tours files a signed document requesting the dismissal of its intervention in this proceeding if the Commission accepts the agreement specified by Mara Ink, there is a possibility that Aspire Tours will be dismissed from the proceeding before the prehearing conference.³

¹ Motion to Amend filed by Mara Ink on July 28, 2020.

² Conditional Withdrawal filed by Ramblin' on July 8, 2020.

³ See Motion to Amend filed by Mara Ink on July 28, 2020.

14. Attachment A to this Decision provides the requirements and information addressing how to use the GoToMeeting platform for participating in the remote prehearing conference.

D. Exhibits

15. At the remote prehearing conference, the ALJ will address how exhibits will be presented at the hearing. The Public Utilities Commission Administrative Hearings Section utilizes box.com to manage exhibits used in a remote hearing. In addition to reviewing and complying with any procedural orders implementing this process, all parties should ensure they can access and use box.com.

16. Each party will receive email containing an invitation to sign up for a free box.com account. Once signed-up, each party will be invited to share a folder with (only) the staff in the Administrative Hearings Section, Commission advisors, and potentially Commissioners and Commission counsel. The party may share access to its box.com account with others as they choose.

17. Parties should sign-up for Box.com and upload one exhibit to their respective folders in Box.com before the remote prehearing conference. Any questions that arise from the process of signing-up for, and uploading an exhibit to, box.com will be addressed at the remote prehearing conference.

18. Attachment B to this Decision provides additional details concerning the preparation and presentation of exhibits at the hearing.

II. ORDER

A. It Is Ordered That:

1. For the reasons stated above, the intervention of Ullr Tours, LLC, doing business as The Colorado Sightseer (Colorado Sightseer) is dismissed. Colorado Sightseer is dismissed as a party to this proceeding.

2. A remote prehearing conference is scheduled as follows:

DATE: August 10, 2020

TIME: 1:00 p.m.

FOR WEBCASTS: Hearing Room B

METHOD: Join by video conference at the link to be provided by the email from the Administrative Law Judge

3. The parties, witnesses, attorneys, and members of the public must not appear in-person for the remote prehearing conference.

4. This Decision is effective immediately.

(S E A L)



THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

CONOR F. FARLEY

Administrative Law Judge

ATTEST: A TRUE COPY

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

Doug Dean,
Director