

Decision No. R20-0590-I

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
GRANTING MOTION TO AMEND
APPLICATION AND CONDITIONAL
REQUEST FOR DISMISSAL OF INTERVENTION
AND DISMISSING RAMBLIN' EXPRESS, INC.**

Mailed Date: August 12, 2020

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 Intervenors.

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 entered an appearance on behalf of Colorado Sightseer and Colorado Sightseer did not file a document showing cause why Rule 1201 of the Commission's Rules of Practice and Procedure, 4 CCR 723-1, did not require it to be represented in this proceeding by an attorney.

8. On July 31, 2020, the ALJ issued Decision No. R20-0561-I that dismissed the intervention of Colorado Sightseer for failure to comply with the directive in Decision No. R20-0444-I to either have legal counsel enter an appearance on Colorado Sightseer's behalf or show cause why Rule 1201 of the Commission's Rules of Practice and Procedure, 4 CCR 723-1, does not require it to be represented by an attorney. Decision No. R20-0561-I also scheduled a prehearing conference for August 10, 2020. Finally, Decision No. R20-0561-I noted that, while there had been filings by Mara Ink and Ramblin' addressing restrictive amendments and putative agreements thereto by Aspire and Ramblin', the record at the time did not clearly

reflect the restrictive amendments proposed by Mara Ink and whether Aspire and/or Ramblin' agreed to withdraw their interventions if the restrictive amendments are accepted by the ALJ. Decision No. R20-0561 concluded that if Mara Ink, Ramblin', and/or Aspire filed documents before the prehearing conference clearly identifying any agreement as to restrictive amendments in return for the conditional withdrawal of interventions, there was a possibility that Ramblin' and/or Aspire would be dismissed from the proceeding in advance of the prehearing conference.

9. On August 3, 2020, Aspire filed a Conditional Request for Dismissal of Intervention in which Aspire stated that it would withdraw its intervention if the Commission accepted the modifications to Mara Ink's proposed authority stated in the Motion to Amend filed by Mara Ink on July 28, 2020. The amendment requested by Mara Ink was to remove call-and-demand sightseeing service from the authority and to add that: (a) "[t]he authority is restricted to the use of a maximum of three vehicles;" and (b) "[t]he authority is further restricted to service provided by sport-utility vehicles (SUVs) with a maximum seating capacity of eight passengers."¹

10. On August 7, 2020, the ALJ issued Decision No. R20-0583-I that granted the restrictive amendment requested by Mara Ink and Aspire Tours, amended the authority sought by Mara Ink consistent with the agreement or Mara Ink and Aspire Tours, and dismissed Aspire Tours as an intervenor in this proceeding.

11. On August 10, 2020, the ALJ held the prehearing conference starting at 1:00 p.m.

¹ Conditional Request at 1; *see also* Motion to Amend Application filed by Mara Ink on July 28.

B. Analysis

12. In Decision No. R20-0561-I, the ALJ noted that, while the record contained several documents addressing an alleged agreement between Mara Ink and Ramblin' concerning a restrictive amendment of the authority sought by Mara Ink and the conditional withdrawal of Ramblin's intervention, there was a lack of clarity concerning that agreement. Specifically, Mara Ink appeared to believe that the agreement was to delete Gilpin County and restrict its proposed authority to service provided by SUVs with a maximum seating capacity of *eight* passengers.² On the other hand, Ramblin' appeared to believe that the agreement was to delete Gilpin County and restrict the proposed authority to service provided by SUVs with a maximum seating capacity of *seven* passengers.³

13. At the prehearing conference, the parties agreed that in return for Mara Ink deleting Gilpin County and restricting its proposed authority to service provided by SUVs with a maximum seating capacity of *eight* passengers, Ramblin' would dismiss its intervention. As stated at the prehearing conference, because these amendments are restrictive in nature, clear and understandable, administratively enforceable, and contained wholly within the scope of the authority sought in the Application, they will be accepted and the Conditional Withdrawal filed by Ramblin' will be granted.

² Stipulation to Amend Application #3 filed by Mara Ink on July 28, 2020 at 2.

³ Conditional Withdrawal filed by Ramblin' on July 8, 2020.

14. Based on the foregoing, the amended authority sought by Mara Ink is as follows:

For authority to operate as common carrier by motor vehicle for hire for the transportation of

passengers in call-and-demand charter service and call-and-demand shuttle service

between all points in the Counties of Adams, Arapahoe, Boulder, Broomfield, Clear Creek, Denver, Douglas, Jefferson, and all points in Weld County that are located south of Colorado Highway No. 14 and west of U.S. Highway No. 85.

RESTRICTIONS:

Restricted to the use of a maximum of three vehicles; and

Restricted to service provided by sport-utility vehicles (SUVs) with a maximum seating capacity of eight passengers.

II. ORDER

A. It Is Ordered That:

1. The restrictive amendment requested by Mara Ink LLC (Mara Ink) and Ramblin' Express, Inc. (Ramblin') contained in the Stipulation to Amend Application #3 filed by Mara Ink on July 28, 2020, is granted.

2. The Application filed by Mara Ink on April 13, 2020, is amended consistent with the discussion above.

3. The Conditional Request for Dismissal of Intervention stated by Ramblin' at the prehearing conference held on August 10, 2020 is granted.

4. Ramblin's intervention in this proceeding is dismissed. Ramblin' is no longer a party to this proceeding.

5. 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