

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 04A-337CP

IN THE MATTER OF THE APPLICATION OF MALCOLM LEWIS, DOING BUSINESS AS
MILE HIGH COMMUTER, FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND
NECESSITY TO OPERATE AS A COMMON CARRIER BY MOTOR VEHICLE FOR HIRE.

**INTERIM ORDER OF
ADMINISTRATIVE LAW JUDGE
MANA L. JENNINGS-FADER
VACATING HEARING**

Mailed Date: October 29, 2004

I. STATEMENT

1. On June 23, 2004, Malcolm Lewis, doing business as Mile High Commuter (Applicant), filed an Application for a Certificate of Public Convenience and Necessity to Operate as a Common Carrier by Motor Vehicle for Hire (Application). The Application commenced this docket.

2. The Commission gave public notice of the Application. Alpine Taxi/Limo, Inc. (Alpine), intervened of right. Metro Taxi, Inc., intervened of right.¹ Casino Transportation, Inc. (CTI), intervened of right. Golden West Commuter, LLC (Golden West), intervened of right. SuperShuttle International Denver, Inc., and Denver Taxi, LLC, intervened of right. CUSA BCCAE, LLC (CUSA), intervened of right. Each of these intervenors opposes the Application. Each has filed a preliminary list of witnesses and copies of its exhibits.

¹ By Decision No. R04-0993-I, the Administrative Law Judge granted the Joint Motion filed by Metro Taxi, Inc., and MKBS, LLC, doing business as Metro Taxi, for Substitution of Intervenor and Intervenor's Counsel.

3. At present, hearing in this matter is scheduled for November 4, 2004. *See* Decision No. R04-1048-I.

4. As of the date of this Order, the following motions are pending: (a) Joint Reoffered Motion to Dismiss, Alternative Motion in Limine, and Request for Expedited Action, filed on October 13, 2004, by CTI and Alpine; (b) Renewed Motion for Discovery Sanctions of Dismissal and Attorneys Fees, filed on October 15, 2004, by Golden West; and (c) Motion to Strike Application or, in the Alternative, Motion in Limine to Limit Evidence, filed on October 19, 2004, by CUSA. Each of these pending motions seeks dismissal of the Application or sanctions because Applicant has neither filed his list of witnesses and copies of his exhibits nor responded to discovery propounded by the moving parties.

5. As of the date of this Order, Applicant has not responded to the pending motions and has not filed his list of witnesses and copies of his exhibits.

6. The hearing is scheduled for November 4, 2004. If the pending motions are granted, the Application will be dismissed and a hearing will not be necessary. If the pending motions are denied, the fact that Applicant has not filed his list of witnesses and copies of his exhibits at this late date (eight calendar days before the scheduled hearing) severely disadvantages the intervenors and plainly hampers their trial preparation. Accordingly, the Administrative Law Judge will vacate the hearing scheduled for November 4, 2004. A new hearing date will be scheduled by a subsequent Order if the motions to dismiss are denied.

II. ORDER

A. It Is Ordered That:

1. The hearing scheduled for November 4, 2004, is vacated.
2. This Order is effective immediately.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Administrative Law Judge

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