

Decision No. R14-0187-I

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 13A-1186CP-EXTENSION

IN THE MATTER OF THE APPLICATION OF HIGH COUNTRY SHUTTLE, INC., TO
EXTEND OPERATIONS UNDER CERTIFICATE OF PUBLIC CONVENIENCE AND
NECESSITY NO. 55806.

**INTERIM DECISION OF
ADMINISTRATIVE LAW JUDGE
MELODY MIRBABA
SCHEDULING HEARING, ESTABLISHING
DEADLINES, AND PERMITTING APPLICANT
TO BE REPRESENTED BY A NON-ATTORNEY**

Mailed Date: February 19, 2014

I. STATEMENT, FINDINGS, AND CONCLUSIONS

1. On November 1, 2013, High Country Shuttle Inc. (Applicant), filed an Application to Extend Operations under Certificate of Public Convenience and Necessity No. 55806 (Application).

2. The Commission provided public notice of the Application on November 4, 2013.

3. On December 4, 2013, Colorado Coach Transportation LLC and MT Acquisitions LLC, doing business as High Mountain Taxi (collectively, interveners), timely intervened of right (by separate filings).

4. During the Commission's weekly meeting held December 11, 2013, the Commission deemed the Application complete and referred it to an administrative law judge (ALJ) for disposition.

5. By Decision No. R13-1545-I issued December 16, 2013, the ALJ scheduled this matter for a prehearing conference for January 8, 2014 at the Commission's Offices.

At the designated date, time, and location, the ALJ convened the hearing. Mr. Imre Zelizi appeared on behalf of Applicant. Mr. Zelizi is Applicant's owner. Mr. Charles Kimball appeared by telephone on behalf of interveners.

6. At the hearing, Applicant admitted that its authority was recently revoked for failing to have proof of financial responsibility on file with the Commission. Decision No. R13-1472 in Proceeding No. 13C-1255-INS. The Decision revoking Applicant's authority became a final Commission Decision on December 17, 2013.

7. However, Mr. Zelizi also stated that he intends to take action on the revocation of Applicant's permit. Since Applicant had taken no such action by the time of the prehearing conference, several weeks after the Commission's decision revoking the permit was made final, the ALJ dismissed the Application without prejudice. Decision No. R14-0040.

8. After the ALJ dismissed the Application, Mr. Zelizi made a filing on January 14, 2014 in Proceeding No. 13C-1255-INS requesting that Applicant's permit be reinstated. By Decision No. C14-0095 issued January 24, 2014, the Commission reinstated Applicant's authority contingent upon Applicant filing a proof of insurance by February 7, 2014. Applicant filed its proof of insurance on January 29, 2014.

9. On January 21, 2014, Applicant filed exceptions to the ALJ's Decision dismissing the Application in this proceeding. On February 12, 2014, the Commission granted Applicant's exceptions because Applicant's authority had been reinstated. Decision No. C14-0169-I. The same Decision referred the Application to an ALJ for disposition on the merits. The ALJ will, therefore, schedule a hearing¹ in this matter on the merits of the Application.

¹ The ALJ notes the Application states that Applicant requests the hearing be held in Golden, Colorado. However, given the short distance from Golden to Denver, Colorado, the ALJ will instead hold the hearing in Denver at the Commission's Office.

10. As an initial matter, the ALJ finds, based upon statements in the Application, that Applicant has met the requirements of Rule 1201(b)(II) of the Rules of Practice and Procedure, 4 *Code of Colorado Regulations* (CCR) 723-1, and § 13-1-127(2), C.R.S.² The ALJ finds that Applicant has provided satisfactory evidence showing that its designated representative, Mr. Imre Zelizi, is authorized to represent it. Consequently, the ALJ will order that Applicant may be represented by Mr. Imre Zelizi, a non-attorney.

11. Because the Application was deemed complete on December 11, 2013 and Applicant did not file testimony and exhibits with the Application, the Commission's decision on the Application must issue **by July 9, 2014**. § 40-6-109.5(2), C.R.S.

12. To allow time for statements of position, recommended decision, exceptions, responses to exceptions, and a Commission decision on exceptions, the **evidentiary hearing on the Application must be concluded no later than April 10, 2014**. Given that this date is closely approaching, the ALJ will not hold a prehearing conference and will instead schedule a hearing and establish procedural deadlines. Should any party be unavailable on the dates scheduled for the hearing, the party should file a motion seeking to modify the hearing dates. Such a motion must include new hearing dates for which all parties are available. Unless Applicant waives the deadline for a Commission decision to issue, any new dates proposed must be for a hearing to take place on or before April 10, 2014.

13. In anticipation of the hearing, the ALJ will order that the parties disclose to each other and file with the Commission all evidence they intend to present at the hearing, as well as a list of witnesses they intend to call to testify on their behalf.

² Applicant is a closely-held entity, having less than three owners. Less than \$15,000 is in controversy in the proceeding. See § 13-1-127(2), C.R.S.

14. Applicant is on notice that it carries the burden of proof to establish that its authority should be extended as requested by the Application.

15. As to disclosure of witnesses, if any party intends to call **only one** of the following: its owner, operator, officer, partner, member, or manager, is not required to file a witness list.³ **However, any party who wishes for any other person to testify on its behalf must file a witness list as required by this Decision.**

16. If a party intends to introduce only one document in support of its case, the party still **must file and serve** an exhibit list and the exhibit. An exhibit is any document or other tangible item the party wishes the ALJ to consider in reaching a decision in this matter.

17. **Applicant is specifically advised and on notice** that documents it has previously filed with the Commission **will not be considered** unless Applicant includes those documents on its exhibit list, and files and serves those documents with its exhibit list.

18. As referenced in this Decision, serving a party with any document (*e.g.*, witness and exhibit lists and exhibits) means that the party is required to give the document to all other parties to the proceeding. Service may be accomplished by United States Mail, or through the Commission's E-filing system, if the party being served is registered with the E-filing system.

19. **All parties are advised** that this proceeding is governed by the Rules of Practice and Procedure found at 4 CCR 723-1, Part 1 and the Rules Regulating Transportation by Motor Vehicle found at 4 CCR 723-6, Part 6. The ALJ expects the parties to comply with the Rules of

³ It is reasonable to presume that the parties will call a single representative witness to testify to the Application and the reasons it should or should not be granted. Given that, the ALJ perceives no prejudice to the parties in permitting them to call a single representative witness without making a witness disclosure. However, any party who disagrees, may file a motion objecting to this procedure.

Practice and Procedure. Both sets of rules are available on the Commission's website at www.dora.colorado.gov/puc and in hard copy from the Commission.

20. **Non-attorneys will be held to the same standards as attorneys.**

21. **All parties are advised that failure to make disclosures as required by this Decision may result in an order dismissing the Application without prejudice, an order preventing a party from presenting evidence, or an order preventing an intervener from participating in this proceeding.**

II. ORDER

A. It Is Ordered That:

1. A hearing on the merits of High Country Shuttle Inc.'s (Applicant) Application to Extend Operations Under Certificate of Public Convenience and Necessity No. 55806 is scheduled as follows:

DATES: April 3 and 4, 2014
TIME: 10:00 a.m. each day
PLACE: Commission Hearing Room
1560 Broadway, 2nd Floor
Denver, Colorado

2. At the above date, time, and place you will be given the opportunity to be heard if you so desire.

3. Consistent with the discussion above, Applicant is permitted to be represented by Mr. Imre Zelizi, *nunc pro tunc*, November 1, 2013.

4. Applicant shall file and serve exhibit and witness lists and exhibits **on or by 5:00 p.m. on March 6, 2014.**

5. Colorado Coach Transportation LLC and MT Acquisitions LLC, doing business as High Mountain Taxi, shall file and serve exhibit and witness lists and exhibits **on or by 5:00 p.m. on March 20, 2014.**

6. Any party that intends to call **only one** of the following: its owner, operator, officer, partner, member, or manager, is not required to file a witness list. **However, any party who wishes for any other person to testify on its behalf must file a witness list as required by this Decision.**

7. Witness lists shall include a detailed description of the witnesses' anticipated testimony and the witnesses' last known address and telephone number.

8. All exhibits shall be identified by sequential numbers (*e.g.*, Exhibit 1, Exhibit 2, Exhibit 3).

9. Exhibits shall include the following information: exhibit number, proceeding number, name of the witness who will testify to the exhibit's foundation, and the date of the hearing. The parties may utilize the Commission's exhibit stamp to include this information on the exhibits. The parties must have all their exhibits stamped prior to the time the hearing is scheduled to begin.

10. At the hearing, the parties shall bring an original and four copies of each pre-marked exhibit they intend to introduce, along with a completed exhibit list in the format set forth in Appendix A to this Decision.

11. If any exhibit is longer than two pages, the party offering the exhibit shall sequentially number *each page* of the exhibit.

12. 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