

Decision No. R14-0287-I

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 14A-0089CP

IN THE MATTER OF THE APPLICATION OF ERICH ROESLER 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
ROBERT I. GARVEY
PERMITTING APPLICANT TO APPEAR
WITHOUT LEGAL COUNSEL AND
SETTING PREHEARING CONFERENCE**

Mailed Date: March 14, 2014

I. STATEMENT

1. On January 24 2014, Erich Roesler (Applicant or Roesler), filed an Application for a Certificate of Public Convenience and Necessity to Operate as a Common Carrier of Passengers by Motor Vehicle for Hire. That filing commenced this proceeding.

2. On January 27, 2014, the Commission issued its Notice of Application Filed (Notice) in this proceeding by publishing a summary of the same in its Notice as follows:

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

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

between all points in the Counties of Denver and Boulder, State of Colorado.

3. On February 26, 2014, MKBS, LLC, doing business as Metro Taxi and/or Taxis Fiesta and/or South Suburban Taxi (Metro Taxi) filed their Entry of Appearance and Notice of Intervention of Right through counsel. This filing attached Commission Authority No. 1481 held by Metro Taxi and a preliminary list of witnesses and exhibits.

4. On February 26, 2014, SuperShuttle International Denver, Inc. (SuperShuttle Denver), and Colorado Cab Company LLC, doing business as, Denver Yellow Cab, Boulder Yellow Cab, and Boulder SurperShuttle (Colorado Cab) timely intervened of right through counsel. This filing attached Commission Authority No. 55686 held by SuperShuttle, Commission Authority No 2378, No. 150, and No. 191 held by Colorado Cab.

5. On March 5, 2014, by Minute Order, the Commission referred this matter to an Administrative Law Judge (ALJ).

A. Legal Counsel/Self Representation

6. *Rule 1201(a) of the Rules of Practice and Procedure, 4 Code of Colorado Regulations (CCR) 723-1*, requires a party in a proceeding before the Commission to be represented by an attorney except that, pursuant to *Rule 1201(b)(I), 4 CCR 723-1*, and as relevant here, an individual who is not an attorney may appear to represent his or her own interests.

7. The ALJ notes that the application and an Affidavit of Eligibility were executed by Erich Roeseler who wishes to represent his own interest in the above captioned proceeding.

8. Review of the information provided by Mr. Roeseler in the Application and the supplementary information filed on February 20, 2014 establishes that Mr. Roeseler may represent his own interests.

9. Having met the requirements of *Rule 1201(b), 4 CCR 723-1*, Mr. Roeseler shall be allowed to represent himself.

10. Applicant is advised, and is on notice, that Mr. Roeseler is the only non-attorney who is authorized to be Erich Roeseler's representative in this proceeding.

11. Mr. Roeseler is advised, and is on notice, that he shall be bound by the same procedural and evidentiary rules as attorneys. The Colorado Supreme Court has held that,

[b]y electing to represent himself [in a criminal proceeding,] the defendant subjected himself to the same rules, procedures, and substantive law applicable to a licensed attorney. A pro se defendant cannot legitimately expect the court to deviate from its role of impartial arbiter and [to] accord preferential treatment to a litigant simply because of the exercise of the constitutional right of self-representation.

People v. Romero, 694 P.2d 1256, 1266 (Colo. 1985).

This standard applies as well to civil proceedings.

Negron v. Golder, 111 P.3d 538, 541 (Colo. App. 2004).

If a litigant, for whatever reason, presents his own case to the court, he is bound by the same rules of procedure and evidence as bind those who are admitted to practice law before the courts of this state.

Loomis v. Seely, 677 P.2d 400, 402 (Colo. App. 1983).

A judge may not become a surrogate attorney for a *pro se* litigant. *Id.*

B. Prehearing Conference

12. Given the procedural posture of the case, it is appropriate to hold a prehearing conference to address several issues. The parties to this proceeding should be prepared to discuss all procedural and substantive issues, including, but not limited to, deadlines for witness lists, exhibits, and a date for a hearing on the Application.

13. A pre-hearing conference in this matter will be scheduled as ordered.

II. ORDER

A. It Is Ordered That:

1. A prehearing conference is scheduled in this matter as follows:

DATE: April 1, 2014

TIME: 9:00 a.m.

PLACE: Hearing Room
Colorado Public Utilities Commission
1560 Broadway, Suite 250
Denver, Colorado

2. Erich Roeseler, is authorized to proceed with Mr. Erich Roeseler as its non-attorney representative in this matter. Mr. Erich Roeseler is the only non-attorney who is authorized to represent Erich Roeseler, in this Proceeding.

3. The Parties shall be held to the advisements in this Decision.

4. This Decision is effective immediately.

(S E A L)



THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

ROBERT I. GARVEY

Administrative Law Judge

ATTEST: A TRUE COPY

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

Doug Dean,
Director