

Decision No. R14-0291-I

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 14A-0035CP

IN THE MATTER OF THE APPLICATION OF GC OUTDOOR, 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
MANA L. JENNINGS-FADER
SCHEDULING EVIDENTIARY HEARING,
ESTABLISHING PROCEDURAL SCHEDULE,
SHORTENING RESPONSE TIME TO
MOTIONS PERTAINING TO DISCOVERY,
AND CONTAINING ADVISEMENTS**

Mailed Date: March 17, 2014

I. STATEMENT

1. On January 8, 2014, GC Outdoor, LLC (GCO or Applicant), filed an Application for a Certificate of Public Convenience and Necessity to Operate as a Common Carrier by Motor Vehicle for Hire (Application). That filing commenced this Proceeding.

2. On January 13, 2014, the Commission issued its Notice of Application Filed (Notice) in this Proceeding; established an intervention period; and established a procedural schedule. On February 20, 2014, Decision No. R14-0192-I vacated that procedural schedule.

3. The following entities intervened as of right and are parties in this Proceeding: Colorado Cab Company, LLC, doing business as Denver Yellow Cab (Denver Yellow Cab); and MKBS, LLC, doing business as Metro Taxi and/or Taxis Fiesta and/or South Suburban Taxi and/or Northwest Suburban Taxi (Metro Taxi). Each opposes the Application.

4. Denver Yellow Cab and Metro Taxi, collectively, are the Intervenors. Applicant and Intervenors, collectively, are the Parties.¹ As authorized by Decision No. R14-0192-I, Applicant is represented by Mr. Gregory Carpenter, who is not an attorney.² Each intervenor is represented by legal counsel.

5. On February 19, 2014, by Minute Order, the Commission referred this matter to an Administrative Law Judge (ALJ).

6. On February 19, 2014, by Minute Order, the Commission deemed the Application complete as of that date. Pursuant to § 40-6-109.5(2), C.R.S., and absent an enlargement of time by the Commission or Applicant's waiver of the statutory provision, a Commission decision on the Application should issue not later than September 17, 2014.

7. In Decision No. R14-0192-I at ¶ 40 and Ordering Paragraph No. 9, the ALJ required Applicant to consult with Intervenors and to make, not later than March 14, 2014, a filing that: (a) contained a procedural schedule, including hearing date, that is satisfactory to the Parties; and (b) addressed the issues discussed in that Interim Decision.

8. Review of the Commission file in this Proceeding reveals that, as of the date of this Interim Decision, GCO has not made the filing required by Decision No. R14-0192-I. Review of the Commission file in this Proceeding reveals that, as of the date of this Interim Decision, GCO has not requested additional time within which to make the filing required by

¹ On February 6, 2014, Colorado Cruisers, doing business as Colorado Crewz-In (Colorado Cruisers), filed a document in this Proceeding. On March 4, 2014, Decision No. R14-0232 dismissed Colorado Cruisers from this Proceeding.

² In that Interim Decision, the Administrative Law Judge set out the conditions pursuant to which Mr. Carpenter appears as Applicant's representative.

Decision No. R14-0192-I. GCO has failed to comply with Decision No. R14-0192-I, and that failure to comply with the requirements of Decision No. R14-0192-I is unexplained and is unexcused.

9. In Decision No. R14-0192-I at ¶ 46, the ALJ advised the Parties that, in the absence of the required March 14, 2014 filing, the ALJ “will schedule the evidentiary hearing and will establish the procedural schedule without input from the Parties.” *See also id.* at Ordering Paragraph No. 11 (same). By this Interim Decision, the ALJ will schedule the evidentiary hearing and will establish a procedural schedule.

10. The ALJ will schedule the evidentiary hearing in this matter for **June 6, 2014**. This will allow the Commission to issue its decision in this Proceeding not later than September 17, 2014.

11. The ALJ will order the following procedural schedule: (a) not later than **March 28, 2014**, Applicant will file its list of witnesses in its direct case and complete copies of the exhibits that it will offer in its direct case; (b) not later than **April 25, 2014**, Intervenor will file its list of witnesses and complete copies of the exhibits that it will offer in its case; (c) not later than **May 16, 2014**, each party will file, if necessary, an updated and corrected list of witnesses and complete copies of the updated or corrected exhibits that it will offer in its case; (d) not later than **May 23, 2014**, each party will file its prehearing motions, including dispositive motions and motions *in limine*;³ and (e) not later than **May 29, 2014**, the Parties will file any settlement agreement or stipulation that they have reached.

³ As a preliminary matter at the evidentiary hearing, the ALJ will hear argument on any pending prehearing motion.

12. Each witness who will be called to testify (except a witness called in Applicant's rebuttal case) must be identified on the list of witnesses that ¶ 11 requires each party to file. The list of witnesses must contain the following information for each listed witness: (a) the name of the witness; (b) the address of the witness; (c) the business telephone number or daytime telephone number of the witness; and (d) a detailed summary of the testimony that the witness is expected to give.

13. **The Parties are advised, and are on notice, that** no person -- *including Mr. Gregory Carpenter, Applicant's representative* -- will be permitted to testify on behalf of a party (except in Applicant's rebuttal case) unless the person is identified on the list of witnesses filed in accordance with this Interim Decision.

14. Complete copies of all exhibits (except an exhibit offered in Applicant's rebuttal case or an exhibit to be used in cross-examination) will be filed as required in ¶ 11.

15. **The Parties are advised, and are on notice, that** no document -- *including the Application and its supporting documents* -- will be admitted into evidence (except in Applicant's rebuttal case or when used in cross-examination) unless that document is filed in accordance with this Interim Decision.

16. Rule 4 *Code of Colorado Regulations* (CCR) 723-1-1405⁴ will govern discovery in this Proceeding.

⁴ This Rule is found in the Rules of Practice and Procedure, Part 1 of 4 *Code of Colorado Regulations* 723.

17. Motions pertaining to discovery may be filed at any time. Unless otherwise ordered, responses to such motions must be written and must be filed within *three business days of service of the motion*.⁵ If necessary, the ALJ will hold a hearing on a discovery-related motion as soon as practicable after the motion is filed.

18. Rules 4 CCR 723-1-1100 and 723-1-1101 will govern the treatment of information claimed to be confidential.

19. **The Parties are advised, and are on notice, that** it is the responsibility of each party to have, at the evidentiary hearing, a sufficient number of copies of each document that the party wishes to offer as an exhibit.⁶ **The Parties are advised, and are on notice, that** the fact that exhibits are prefiled in accordance with this Interim Decision does *not* alter the requirement set out in this paragraph.

20. **The Parties are advised, and are on notice, that the Commission will *not* make copies of documents that are offered as exhibits.**

21. The Parties are reminded that, in Decision No. R14-0192-I, the ALJ advised the Parties that the ALJ requires the Parties to comply with the Rules of Practice and Procedure, Part 1 of 4 CCR 723.

⁵ By this Interim Decision, the ALJ will shorten the response time to discovery-related motions.

⁶ This means that, at the hearing, a party must have a sufficient number of copies of each document to provide: one to be marked and retained by the Commission as the hearing exhibit; one to be given to each of the other parties; one to be given to the ALJ; and one to be retained by the party offering the exhibit.

II. ORDER

A. It Is Ordered That:

1. The evidentiary hearing in this matter shall be held on the following date, at the following time, and in the following location:

DATE: June 6, 2014

TIME: 9:00 a.m.

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

2. The following procedural schedule is adopted: (a) not later than March 28, 2014, Applicant GC Outdoor, LLC, shall file its list of witnesses in its direct case and complete copies of the exhibits that it will offer in its direct case; (b) not later than April 25, 2014, each intervenor shall file its list of witnesses and complete copies of the exhibits that it will offer in its case; (c) not later than May 16, 2014, each party shall file, if necessary, an updated and corrected list of witnesses and complete copies of the updated or corrected exhibits that it will offer in its case; (d) not later than May 23, 2014, each party shall file its prehearing motions; and (e) not later than May 29, 2014, the Parties shall file any settlement agreement or stipulation that they have reached

3. No person -- including Applicant's representative Mr. Gregory Carpenter -- shall be permitted to testify on behalf of a party (except in Applicant's rebuttal case) unless the person is identified on the list of witnesses filed in accordance with this Interim Decision.

4. No document -- including the Application and appended documents -- shall be admitted into evidence (except in Applicant's rebuttal case or when used in cross-examination) unless that document is filed in accordance with this Interim Decision.

5. Rule 4 *Code of Colorado Regulations* 723-1-1405 shall govern discovery.
6. Response time to a motion pertaining to discovery is shortened to three business days.
7. Rules 4 *Code of Colorado Regulations* 723-1-1100 and 723-1-1101 shall govern the treatment of information claimed to be confidential.
8. The Parties are held to the advisements in the Interim Decisions issued in this Proceeding.
9. This Interim Decision is effective immediately.

(S E A L)



ATTEST: A TRUE COPY

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

Doug Dean,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

MANA L. JENNINGS-FADER

Administrative Law Judge