

Decision No. R14-0357-I

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 14A-0014CP

IN THE MATTER OF THE APPLICATION OF GUNNISON TAXI COMPANY, 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
ROBERT I. GARVEY
ESTABLISHING PROCEDURAL SCHEDULE,
GRANTING INTERVENTIONS AND STRIKING
INTERVENTION OF TELLURIDE EXPRESS AND/OR
MONTROSE EXPRESS AND/OR WILD WEST TOURS**

Mailed Date: April 3, 2014

I. STATEMENT

1. Gunnison Taxi Company LLC (Applicant), initiated the above captioned proceeding on January 3, 2014, by filing an application seeking authority for a certificate of public convenience and necessity to operate as a common carrier by motor vehicle for hire with the Colorado Public Utilities Commission (Commission).

2. On January 13, 2014, the Commission provided public notice of the application by publishing a summary of the same in its Notice of Applications Filed as follows:

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

passengers in:

- (I) call and-demand taxi service between all points in the City of Gunnison, Colorado, and between said points, on the one hand, and all points within a 20-mile radius of the intersection of Main Street and Tomichi Avenue, Gunnison, Colorado on the other hand: and

- (II) call-and demand shuttle service between all points in the City of Gunnison, Colorado, and between said points, on the one hand, and all points in the Cities of Crested Butte, Delta, Grand Junction, Lake City, Montrose, Mt. Crested Butte, and Salida, State of Colorado, on the other hand.

3. On January 17, 2014, AEX, Inc., doing business as Alpine Express (Alpine Express) filed its Entry of Appearance and Notice of Intervention. This filing attached Commission Authority No. 12750 held by Alpine Express and a preliminary list of witnesses and exhibits.

4. On February 11, 2014, Tazco Inc., doing business as Sunshine Taxi (Sunshine Taxi) filed its Entry of Appearance and Notice of Intervention. This filing attached Commission Authority No. 19429 held by Sunshine Taxi and a preliminary list of witnesses and exhibits.

5. Also on February 11, 2014, San Miguel Mountain Ventures, LLC, doing business as Telluride Express and/or Montrose Express and/or Wild West Tours (Telluride Express) filed their Entry of Appearance and Notice of Intervention. This filing attached Commission Authorities No. 1648 and No. 55679 held by Telluride Express.

6. On February 19, 2014, the Commission deemed the application complete and it was referred to an Administrative Law Judge (ALJ) for disposition.

7. By Interim Decision No. R14-0195-I issued February 21, 2104, a prehearing conference was scheduled for March 14, 2014 and the Intervenors were ordered to make a filing concerning representation by March 7, 2014.

8. On March 14, 2014, the prehearing conference was held. Appearances were made by the Applicant, counsel for Alpine Express, and Kelly Milan of Sunshine Taxi. Telluride Express failed to appear.

9. At the prehearing conference the parties agreed to a procedural schedule and Sunshine Taxi was ordered to make a filing concerning representation. This Decision memorializes the procedural schedule and order.

A. Interventions

10. In Interim Decision No. R14-0195-I, Alpine Express, Sunshine Taxi, and Telluride Express were ordered to make a filing concerning representation by March 7, 2014.

11. Counsel for Alpine Express entered his appearance in the above captioned proceeding on March 6, 2014. The intervention of Alpine Express is granted.

12. Sunshine Taxi and Telluride Express did not make the ordered filing prior to the prehearing conference held on March 14, 2014. Sunshine Taxi appeared for the prehearing Conference. Telluride Express failed to appear for the prehearing conference.

13. At the prehearing conference, Sunshine Taxi was again ordered to make a filing concerning representation by March 21, 2014.

14. On March 21, 2014, Sunshine Taxi made the required filing regarding representation. The intervention of Sunshine Taxi is granted.

15. In the filing, Kelly Milan, vice president of Sunshine Taxi, requests to represent the interests of Sunshine Taxi *pro se*. Based on the filing, Mr. Milan may represent the interests of Sunshine Taxi.

16. Mr. Milan is advised, and is on notice, that he is the only non-attorney who is authorized to be Sunshine Taxi's representative in this proceeding.

17. Mr. Milan 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.*

18. Telluride Express has failed to make any filing concerning representation as ordered in Interim Decision No. R14-0195-I and has not requested an extension of time to make the filing. In addition, Telluride Express failed to appear for the prehearing conference held on March 14, 2014.

19. The undersigned ALJ finds that Telluride Express has abandoned its intervention so therefore the intervention shall be stricken.

B. Procedural Schedule

20. At the prehearing conference the parties agreed to the following procedural schedule:

- Applicant’s Witness and Exhibit List & Exhibits due date April 4, 2014
- Intervenors Witness and Exhibit List & Exhibits due date..... April 25, 2014
- Evidentiary Hearing on Application June 18, and June 19, 2014

21. The above procedural schedule shall be adopted.

II. ORDER

A. It Is Ordered That:

1. The interventions of AEX, Inc., doing business as Alpine Express and Tazco Inc., doing business as Sunshine Taxi are granted and they are parties to this proceeding.

2. Tazco Inc., doing business as Sunshine Taxi, is authorized to proceed with Mr. Kelly Milan as its non-attorney representative in this matter. Mr. Kelly Milan is the only non-attorney who is authorized to represent Tazco Inc., doing business as Sunshine Taxi, in this proceeding.

3. The intervention of San Miguel Mountain Ventures, LLC, doing business as Telluride Express and/or Montrose Express and/or Wild West Tours is stricken and they are not a party to this proceeding.

4. The procedural schedule as stated in ¶ 20 above is adopted.

5. An evidentiary hearing is scheduled in this matter as follows:

DATES: June 18 and 19, 2014

TIME: 9:00 a.m.

PLACE: Fireplace Room
Webster Hall
124 E. Virginia
Gunnison, Colorado

6. This Decision shall be 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