

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 14A-0178CP-EXTENSION

IN THE MATTER OF THE APPLICATION OF GREEN MOUNTAIN SKI BUS, INC., DOING BUSINESS AS FRONT RANGE SKI BUS, FOR AUTHORITY TO EXTEND OPERATIONS UNDER CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY NO. 55822.

**INTERIM DECISION OF
ADMINISTRATIVE LAW JUDGE
MANA L. JENNINGS-FADER
SCHEDULING PREHEARING CONFERENCE,
ADDRESSING INTERVENTIONS, NOTIFYING
PARTIES THAT APPLICATION HAS BEEN
DEEMED COMPLETE, VACATING PROCEDURAL
SCHEDULE, AND CONTAINING ADVISEMENTS**

Mailed Date: April 25, 2014

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I. STATEMENT

1. On February 26, 2014, Green Mountain Ski Bus, Inc., doing business as Front Range Ski Bus (Ski Bus or Applicant), filed an Application for Permanent Authority to

Extend Current Operations under Certificate of Public Convenience and Necessity PUC No. 55822. That filing commenced this Proceeding.

2. On March 6, 2014, Applicant filed a clarification of the authority sought and supplemented the February 26, 2024 filing. As used in this Decision, unless the context indicates otherwise, Application refers to the February 26, 2014 filing as clarified and supplemented on March 6, 2014.

3. On March 10, 2014, the Commission issued its Notice of Application Filed (Notice). That Notice described the authority sought by Applicant (Notice at 2-3), established an intervention period (*id.* at 1), and contained a procedural schedule (*id.*). This Interim Decision will vacate that procedural schedule.

4. On April 16, 2014, by Minute Order the Commission referred this matter to an Administrative Law Judge (ALJ).

A. Interventions.

5. On March 31, 2014, MKBS, LLC, doing business as Metro Taxi and/or Taxis Fiesta and/or South Suburban Taxi and/or Northwest Suburban Taxi (Metro Taxi), timely filed (in one document) its Entry of Appearance and Intervention by Right in Opposition to the Permanent Authority Application or Alternate Motion to Permissively Intervene (Metro Taxi March 31 Filing).¹ By that filing, Metro Taxi opposes the Application.

6. On April 21, 2014, Applicant filed its Response to the Metro Taxi March 31 Filing. On April 22, 2014, Applicant filed its First Amended Response to the Metro Taxi March 31 Filing. In that filing, Applicant opposes Metro Taxi's intervention in this Proceeding.

¹ On the same date, Metro Taxi filed its Preliminary List of Witnesses. On the same date, Metro Taxi filed its Preliminary List of Exhibits, to which are attached copies of proposed exhibits.

7. On April 9, 2014, Colorado Cab Company, LLC, doing business as Denver Yellow Cab (Colorado Cab), timely filed (in one document) its Entry of Appearance and Notice of Intervention by Right, Alternative Motion for Permissive Intervention, Opposition to Application, and Request for Hearing (Colorado Cab April 9 Filing). By that filing, Colorado Cab opposes the Application and requests a hearing in this matter.

8. On April 23, 2014, Applicant filed its Response to the Colorado Cab April 9 Filing. In that filing, Applicant opposes Colorado Cab's intervention in this Proceeding.

9. On April 9, 2014, SuperShuttle International Denver, Inc. (SuperShuttle), timely filed (in one document) its Entry of Appearance and Notice of Intervention by Right, Alternative Motion for Permissive Intervention, Opposition to Application, and Request for Hearing (SuperShuttle April 9 Filing). By that filing, SuperShuttle opposes the Application and requests a hearing in this matter.

10. On April 23, 2014, Applicant filed its Response to the SuperShuttle April 9 Filing. In that filing, Applicant opposes SuperShuttle's intervention in this Proceeding.

11. The intervention period has expired. Review of the Commission file in this matter reveals that, as if the date of this Interim Decision, no other person has filed an intervention as of right or a motion or petition for leave to intervene by permission.

12. Review of the Commission file in this matter reveals that, as of the date of this Interim Decision, no person has filed a motion for leave to intervene out-of-time.

13. For purposes of this Interim Decision, Colorado Cab, Metro Taxi, and SuperShuttle, collectively, are the Intervenors. Applicant and Intervenors, collectively, are the Parties. Each party is represented by legal counsel.

B. Application Complete and Time for Commission Decision.

14. When it filed the Application, Ski Bus filed neither its direct testimony and complete copies of exhibits in support of the Application nor a detailed summary of its testimony and complete copies of exhibits in support of the Application.

15. On April 16, 2014, the Commission deemed the Application to be complete within the meaning of § 40-6-109.5, C.R.S.

16. Pursuant to § 40-6-109.5(2), C.R.S., and absent an enlargement of time by the Commission² or Applicant's waiver of § 40-6-109.5, C.R.S., a Commission decision on the Application should issue not later than 210 days from the date on which the Commission deemed the Application to be complete. Thus, the Commission should issue its decision on the Application on or before **November 12, 2014**.

C. Motion to Amend Application.

17. As noticed by the Commission, the Applicant seeks authority to operate as a common carrier by motor vehicle for hire to provide:

- I. Transportation of
passengers in call-and-demand shuttle and charter service
between all points in the Counties of Adams, Arapahoe, Denver, Douglas,
and Jefferson, State of Colorado, on the one hand, and all points in the
Counties of Clear Creek, Eagle, Grand, and Summit, State of Colorado, on
the other hand; and

² Pursuant to § 40-6-109.5(4), C.R.S., the Commission may extend the time for decision an additional 90 days upon a finding of extraordinary circumstances.

II. Transportation of
passengers

in call-and-demand charter and charter service between all points in the Counties of Adams, Arapahoe, Denver, and Douglas, State of Colorado, on the one hand, and 18300 W. Alameda Parkway, Red Rocks Park and Amphitheater, Morrison, Colorado, on the other hand.

RESTRICTIONS:

Item (I) is restricted:

- (A) Against providing transportation service to or from Denver International Airport, Denver, Colorado;
- (B) Against originating or terminating transportation service at points within the area in downtown Denver defined as follows: beginning at the intersection of 15th Street and Blake Street, then northeast along Blake Street to 18th Street; then southeast along 18th Street to Broadway; then south along Broadway to Colfax Avenue; then west along Colfax Avenue to 15th Street; then northwest along 15th Street to the point of beginning;
- (C) Against originating or terminating transportation service at points within a one and one-half mile radius of the Denver West Marriott, 1717 Denver West Marriott Boulevard, Golden, Colorado; and
- (D) To the use of vehicles with a minimum seating capacity of twelve (12) passengers.

Item (II) is restricted:

- (A) Against providing transportation service to or from Denver International Airport, Denver, Colorado; and
- (B) To the use of vehicles with a minimum seating capacity of no less than fifteen (15) passengers.

Notice at 3.

18. On April 23, 2014, Applicant filed a Motion to Amend the Application (Motion to Amend). A proposed Amended Application is Exhibit 1 to the Motion to Amend, and a proposed Amended Statement of Authority is Exhibit 2 to the Motion to Amend.

19. If the Motion to Amend is granted, it appears that the reference to charter service will be removed from Item II; and the remainder of the description of the authority will remain

the same. If the Motion to Amend is granted, the Applicant will seek authority to operate as a common carrier by motor vehicle for hire to provide:

- I. Transportation of passengers in call-and-demand shuttle and charter service between all points in the Counties of Adams, Arapahoe, Denver, Douglas, and Jefferson, State of Colorado, on the one hand, and all points in the Counties of Clear Creek, Eagle, Grand, and Summit, State of Colorado, on the other hand; and
- II. Transportation of passengers in call-and-demand shuttle service between all points in the Counties of Adams, Arapahoe, Denver, and Douglas, State of Colorado, on the one hand, and 18300 West Alameda Parkway, Red Rocks Park and Amphitheater, Morrison, Colorado, on the other hand.

RESTRICTIONS:

Item (I) is restricted:

- (A) Against providing transportation service to or from Denver International Airport, Denver, Colorado;
- (B) Against originating or terminating transportation service at points within the area in downtown Denver defined as follows: beginning at the intersection of 15th Street and Blake Street, then northeast along Blake Street to 18th Street; then southeast along 18th Street to Broadway; then south along Broadway to Colfax Avenue; then west along Colfax Avenue to 15th Street; then northwest along 15th Street to the point of beginning;
- (C) Against originating or terminating transportation service at points within a [one] and one-half mile radius of the Denver West Marriott, 1717 Denver West Marriott Boulevard, Golden, Colorado; and
- (D) To the use of vehicles with a minimum seating capacity of twelve (12) passengers.

Item (II) is restricted:

- (A) Against providing transportation service to or from Denver International Airport, Denver, Colorado; and
- (B) To the use of vehicles with a minimum seating capacity of no less than fifteen (15) passengers.

Exhibit 2 to the Motion to Amend at 1.

20. Response time to the Motion to Amend has not expired.

D. Prehearing Conference.

21. Applicant challenges the interventions. In addition, two intervenors request an evidentiary hearing in this Proceeding. Consequently, the ALJ will hold a prehearing conference to address the matters identified below and, as necessary, to establish a procedural schedule and evidentiary hearing date(s) in this matter. The ALJ will schedule a prehearing conference in this matter to be held on **May 9, 2014**.

22. *At the prehearing conference*, Colorado Cab and Applicant must be prepared to address Applicant's opposition to Colorado Cab's intervention.

23. *At the prehearing conference*, Metro Taxi and Applicant must be prepared to address Applicant's opposition to Metro Taxi's intervention.

24. *At the prehearing conference*, SuperShuttle and Applicant must be prepared to address Applicant's opposition to SuperShuttle's intervention.

25. The remainder of this discussion of the prehearing conference assumes that there is at least one intervenor.

26. *At the prehearing conference*, the Parties must be prepared to discuss the Motion to Amend.

27. *At the prehearing conference*, the Parties must be prepared to discuss: (a) the date by which Applicant will file its list of witnesses and complete copies of the exhibits it will offer in its direct case; (b) the date by which each intervenor will file its list of witnesses and complete copies of the exhibits it will offer in its case; (c) the date by which each party will file, if necessary, a corrected list of witnesses and complete copies of corrected exhibits; (d) the date by which each party will file prehearing motions, including dispositive motions;³ (e) the date by which the Parties will file any stipulation or settlement agreement reached;⁴ (f) the evidentiary hearing date(s);⁵ and (g) a statement as to whether the Parties wish to make oral closing statements at the conclusion of the evidentiary hearing.

28. In considering hearing dates, the Parties are reminded that, absent an enlargement of time or a waiver of § 40-6-109.5, C.R.S., the Commission decision in this matter should issue not later than November 12, 2014. To allow time for a recommended decision, exceptions, responses to exceptions, and a Commission decision on exceptions, the **evidentiary hearing must be concluded not later than August 8, 2014.**

29. *At the prehearing conference*, the Parties must be prepared to discuss any matter pertaining to discovery if the procedures and time frames contained in Rule 4 *Code of Colorado Regulations* (CCR) 723-1-1405⁶ are not sufficient.

³ This date can be no later than ten calendar days before the first day of hearing.

⁴ This date can be no later than three business days before the first day of hearing.

⁵ Given the number of Intervenor, the evidentiary hearing may take more than one day. If the Parties are of the opinion that more than one hearing day will be necessary, the hearing days must be consecutive within the same week (*i.e.*, no intervening weekends and no intervening State holidays).

⁶ This Rule is found in the Rules of Practice and Procedure, Part 1 of 4 *Code of Colorado Regulations* 723.

30. *At the prehearing conference*, the Parties must be prepared to discuss any matter pertaining to information claimed to be confidential if the procedures in Rules 4 CCR 723-1-1100 and 723-1-1101 are not adequate.

31. *At the prehearing conference*, a party may raise any additional issue.

32. The ALJ expects the Parties to come to the prehearing conference with proposed dates for the procedural schedule and evidentiary hearing. The Parties must consult prior to the prehearing conference with respect to the matters identified in this Interim Decision and are encouraged to present, if possible, a procedural schedule and hearing date(s) that are satisfactory to all Parties. The ALJ will order Applicant to coordinate the discussions.

33. **The Parties are advised, and are on notice, that** the ALJ will deem a party's failure to attend or to participate in the prehearing conference to be a waiver of objection to the decisions made, the procedural schedule established, and the hearing date(s) scheduled at the prehearing conference.

E. Advisements.

34. **The Parties are advised, and are on notice, that** they must be familiar with, and must abide by, the Rules of Practice and Procedure, 4 CCR 723 Part 1. These Rules are available on-line at www.dora.colorado.gov/puc.

35. **The Parties are advised, and are on notice, that** a document is filed with the Commission on the date that the Commission *receives* the document. Thus, if a document is placed in the mail on the date on which the document is to be filed, then the document is *not* filed timely with the Commission.

36. **The Parties are advised, and are on notice, that** the Commission has an E-Filings System available. One may learn about -- and, if one chooses, may register to use -- that system at www.dora.colorado.gov/puc.

II. **ORDER**

A. **It Is Ordered That:**

1. The procedural schedule established in the Notice of Application Filed dated March 10, 2014 is vacated.

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

DATE: May 9, 2014

TIME: 9:00 a.m.

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

3. The matters identified above will be discussed at the prehearing conference. Those attending the prehearing conference must be prepared to discuss the matters identified above and must have authority to agree to a procedural schedule and evidentiary hearing dates(s).

4. Failure to attend or to participate in the prehearing conference is deemed a waiver of objection to the decisions made, the procedural schedule established, and the hearing date(s) and the prehearing date scheduled at the prehearing conference.

5. Prior to the prehearing conference, the Parties shall consult about the matters discussed and identified above. Green Mountain Ski Bus, Inc., doing business as Front Range Ski Bus, shall coordinate the discussions.

6. The Parties are held to the advisements in this Interim Decision.

7. This Interim Decision is effective immediately.

(S E A L)



THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

MANA L. JENNINGS-FADER

Administrative Law Judge

ATTEST: A TRUE COPY

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

Doug Dean,
Director