

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 14A-0138BP

IN THE MATTER OF THE APPLICATION OF AIMEE J. ADJAI DOING BUSINESS AS CHRISTOPHER TRANSPORTATION & HOME CARES PROVIDER SERVICES FOR A PERMIT TO OPERATE AS A CONTRACT CARRIER BY MOTOR VEHICLE FOR HIRE.

**RECOMMENDED DECISION OF
ADMINISTRATIVE LAW JUDGE
MELODY MIRBABA
GRANTING APPLICATION UNDER
MODIFIED PROCEDURE**

Mailed Date: May 1, 2014

I. STATEMENT

1. On February 13, 2014, Aimee J. Adjai, doing business as Christopher Transportation & Home Cares Provider Services (Applicant) filed an Application for a Permit to Operate as a Contract Carrier by Motor Vehicle for Hire (Application).

2. The Commission provided public notice of the Application on February 24, 2014. As originally noticed, the Application sought authority to operate as a contract carrier by motor vehicle for hire for the transportation of passengers:

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

RESTRICTIONS: This application is restricted:

- (a) to the transportation of passengers who are recipients of Medicaid; and,
- (b) to providing Non-Medical Transportation (NMT) services for the Colorado Department of Health Care Policy and Financing, 1570 Grant Street Denver, Colorado.

3. MKBS LLC, doing business as Metro Taxi, Taxis Fiesta, South Suburban Taxi, and Northwest Suburban Taxi (Metro), Colorado Cab Company LLC, doing business as

Denver Yellow Cab and Boulder Yellow Cab (Colorado Cab), and Colorado Springs Transportation LLC (Colorado Springs Transportation) timely intervened of right.

4. During the Commission's weekly meeting held April 2, 2014, the Commission deemed the Application complete and referred it to an administrative law judge (ALJ) for disposition.

5. On April 3, 2014, the ALJ scheduled a prehearing conference in accordance with Rule 1409(a) of the Rules of Practice and Procedure, 4 *Code of Colorado Regulations* (CCR) 723-1 for April 15, 2014. Decision No. R14-0354-I. Applicant personally appeared at the prehearing conference; Mr. Mark Valentine appeared on behalf of Colorado Cab and Colorado Springs Transportation; Ms. Cesilie Garles appeared on behalf of Metro. At the prehearing conference, the parties agreed to, and the ALJ approved a procedural schedule and scheduled a hearing on the Application for May 27, 2014 at 10:00 a.m. Decision No. R14-0402-I

6. On April 29, 2014, Metro filed a "Stipulated Motion for Imposition of Restrictive Amendments and Conditional Withdrawal of Interventions" (Stipulation). The Stipulation is executed by all parties to this proceeding. The Stipulation proposes to restrictively amend the Application. If the restrictive amendments are approved, Metro, Colorado Cab and Colorado Springs Transportation agree to withdraw their interventions.

7. Because the Stipulation is unopposed, the ALJ will *sua sponte* waive the response time to it, as permitted by Rule 1400(b), 4 CCR 723-1.

8. The Stipulation proposes to amend the Application to seek the following authority:

Authority to operate as contract carrier by motor vehicle for hire for the transportation of

passengers

between all points in the Counties of Adams, Arapahoe, Denver, and Douglas, State of Colorado.

RESTRICTIONS: This application is restricted:

- (A) to providing transportation services to recipients of Medicaid;
- (B) to providing non-medical transportation (NMT) services for the Colorado Department of Health Care Policy and Financing, 1570 Grant Street, Denver, Colorado.
- (C) against providing transportation services to hotels, motels, and airports;
- (D) against transportation originating from any point in Douglas County, State of Colorado, that is located south of a line beginning on the Douglas/Jefferson County boundary, and extends to a point on the Douglas/Elbert County boundary, said line is parallel to the northern El Paso County boundary as drawn through exit 172 of Interstate Highway 25; and
- (E) to the use of no more than two vehicles at any given time.

9. To be acceptable, the proposed amendments must be restrictive in nature, must be clear and understandable, and must be administratively enforceable. Both the contract carrier permit and any restriction on that permit must be unambiguous and must be contained wholly within the authority granted. Both must be worded so that a person will know, from reading the contract carrier permit and without having to resort to any other document, the exact extent of the authority and of each restriction. Clarity is essential because the scope of a contract carrier permit must be found within the four corners of the authority, which is the touchstone by which one determines whether the operation of a contract carrier is within the scope of its Commission-granted authority.

10. As amended pursuant to Applicant's request in the Stipulation, the ALJ finds and concludes that the proposed amendments are restrictive in nature, clear and understandable, and administratively enforceable. The restrictive amendments to the authority sought by Applicant through the Stipulation will be accepted.

11. Accepting the amendments to the Application has several impacts. First, the authority sought (as stated in the notice and the Application) will be amended to conform to the restrictive amendments. Second, Metro, Colorado Cab and Colorado Springs Transportation will be dismissed as parties, as a result of withdrawing their intervention as stated in the Stipulation. Finally, because the interventions are withdrawn, the Application is now unopposed and may be addressed through a modified procedure, without a hearing. § 40-6-109(5), C.R.S., and Rule 1403, 4 CCR 723-1.

12. The ALJ finds that the proposed authority as amended by this Decision is clear, unambiguous, and administratively enforceable. The Application requests authority to operate as a contract carrier for motor vehicle for hire. The Application establishes that Applicant is familiar with the Rules Regulating Transportation by Motor Vehicle, 4 CCR 723-6, and agrees to be bound by, and to comply with, those Rules. The Application and its supporting documentation establish that Applicant has or will have sufficient equipment with which to render the proposed service and is fit, financially and managerially, to conduct operations under the authority requested. In addition, the Application and supporting documents establish that the service proposed is specialized and tailored to meet the customer's distinct needs. Finally, the Application and its supporting documentation indicate a need for the proposed service. The ALJ finds that the Application is reasonable and in the public interest. For the foregoing reasons, the permit should be granted.

13. In accordance with § 40-6-109, C.R.S., the ALJ now transmits the record in this proceeding along with this written recommended decision. The ALJ recommends the Commission enter the following order.

II. ORDER

A. The Commission Orders That:

1. The “Stipulated Motion for Imposition of Restrictive Amendments and Conditional Withdrawal of Interventions” (Stipulation) executed by MKBS LLC, doing business as Metro Taxi, Taxis Fiesta, South Suburban Taxi, and Northwest Suburban Taxi (Metro), Colorado Cab Company LLC doing business as Denver Yellow Cab and Boulder Yellow Cab (Colorado Cab), and Colorado Springs Transportation LLC (Colorado Springs Transportation) is granted.

2. The Application for a Permit to Operate as a Contract Carrier by Motor Vehicle for Hire (Application) filed by Aimee J. Adjai, doing business as Christopher Transportation & Home Cares Provider Services (Applicant) is amended as stated in ¶ 8 above pursuant to the Applicant’s request in the Stipulation.

3. Metro’s intervention is withdrawn; Metro is dismissed as a party to this proceeding.

4. Colorado Cab’s intervention is withdrawn; Colorado Cab is dismissed as a party to this proceeding.

5. Colorado Springs Transportation’s intervention is withdrawn; Colorado Springs Transportation is dismissed as a party to this proceeding.

6. The hearing scheduled for May 27, 2014 at 10:00 a.m. and all associated deadlines are vacated.

7. Applicant is granted a permit to operate as a contract carrier by motor vehicle for hire as follows:

Transportation of
passengers

between all points in the Counties of Adams, Arapahoe, Denver, and Douglas, State of Colorado.

RESTRICTIONS. This permit is restricted:

- (A) to providing transportation services to recipients of Medicaid;
- (B) to providing non-medical transportation (NMT) services for the Colorado Department of Health Care Policy and Financing, 1570 Grant Street, Denver, Colorado.
- (C) against providing transportation services to hotels, motels, and airports;
- (D) against transportation originating from any point in Douglas County, State of Colorado, that is located south of a line beginning on the Douglas/Jefferson County boundary, and extends to a point on the Douglas/Elbert County boundary, said line is parallel to the northern El Paso County boundary as drawn through exit 172 of Interstate Highway 25; and
- (E) to the use of no more than two vehicles at any given time.

8. Applicant shall operate in accordance with all applicable Colorado laws and Commission rules. All operations under the permit granted shall be strictly contract carrier operations.

9. Applicant shall not commence the operations under the permit until it has complied with the requirements of Colorado laws and Commission rules, including without limitation:

- (a) causing proof of insurance (Form E or self-insurance) or surety bond (Form G) coverage to be filed with the Commission;
- (b) paying to the Commission, the motor vehicle fee (\$5) for each vehicle to be operated under authority granted by the Commission, or in lieu thereof,

paid the fee for such vehicle(s) pursuant to the Unified Carrier Registration Agreement;

- (c) having an effective tariff on file with the Commission. Applicant shall file an advice letter and tariff on not less than ten days' notice. The advice letter and tariff shall be filed as a new Advice Letter proceeding and shall comply with all applicable rules. In calculating the proposed effective date, the date received at the Commission is not included in the notice period and the entire notice period must expire prior to the effective date. (Additional tariff information can be found on the Commission's website at dora.colorado.gov/puc and by following the transportation common and contract carrier links to tariffs); and
- (d) paying the applicable issuance fee (\$5).

10. If Applicant does not cause proof of insurance or surety bond to be filed, pay the appropriate motor vehicle fees, file an advice letter and proposed tariff, and pay the issuance fee within 60 days of the effective date of this Decision, then the grant of the extended operations under the Permit shall be void. For good cause shown, the Commission may grant additional time for compliance if the request for additional time is filed within 60 days of the effective date of this Decision.

11. The Commission will notify Applicant in writing when the Commission's records demonstrate compliance with Ordering Paragraph 9.

12. This Recommended Decision shall be effective on the day it becomes the Decision of the Commission, if that is the case, and is entered as of the date above.

13. As provided by § 40-6-106, C.R.S., copies of this Recommended Decision shall be served upon the parties, who may file exceptions to it.

a) If no exceptions are filed within 20 days after service or within any extended period of time authorized, or unless the recommended decision is stayed by the Commission

upon its own motion, the recommended decision shall become the decision of the Commission and subject to the provisions of § 40-6-114, C.R.S.

b) If a party seeks to amend, modify, annul, or reverse a basic finding of fact in its exceptions, that party must request and pay for a transcript to be filed, or the parties may stipulate to portions of the transcript according to the procedure stated in § 40-6-113, C.R.S. If no transcript or stipulation is filed, the Commission is bound by the facts set out by the administrative law judge; and the parties cannot challenge these facts. This will limit what the Commission can review if exceptions are filed.

14. If exceptions to this Recommended Decision are filed, they shall not exceed 30 pages in length, unless the Commission for good cause shown permits this limit to be exceeded.

(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