

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 14A-0337CP

IN THE MATTER OF THE APPLICATION OF COY CLUB, LLC DOING BUSINESS AS DENVER BAR CART 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
MELODY MIRBABA
SETTING HEARING AND ESTABLISHING DEADLINES**

Mailed Date: June 16, 2014

I. STATEMENT

1. On April 14, 2014, CoY Club, LLC, doing business as Denver Bar Cart (Applicant) filed the above-captioned application. That same day, Applicant's counsel entered his appearance. Applicant amended the Application by a filing made on April 21, 2014.

2. The Commission provided public notice of the Application on April 21, 2014.

3. MKBS LLC, doing business as Metro Taxi, Taxis Fiesta, South Suburban Taxi, Northwest Suburban Taxi (Metro), Colorado Cab Company LLC, doing business as Denver Yellow Cab and Boulder Yellow Cab (Colorado Cab), Shamrock Taxi of Fort Collins Inc. (Shamrock), Colorado Springs Transportation LLC (Colorado Springs Transportation), and Colorado Cruisers Inc., doing business as Colorado Crewz-In (Colorado Cruisers) (collectively, interveners) timely intervened of right. The interveners object to the Application.

4. During the Commission's weekly meeting held May 28, 2014, the Commission deemed the Application complete and referred it to an administrative law judge (ALJ) for disposition.

5. In anticipation of the hearing on the Application, the undersigned ALJ held a prehearing conference on June 16, 2014. Decision No. R14-0592-I. At the prehearing conference, Applicant appeared through counsel, Mr. Igor Raykin, Metro appeared through counsel Ms. Ceselie Garles, Colorado Cab, Shamrock and Colorado Springs Transportation appeared through their counsel, Mr. Mark Valentine, and Mr. Keith Covill appeared for Colorado Cruisers. At the prehearing conference, the parties agreed to, and the ALJ approved the below procedural schedule and hearing date. The ALJ also ordered Colorado Cruisers to supplement its June 10, 2014 filing regarding representation.

6. In anticipation of the hearing, the parties are ordered to file and serve disclosures of the witnesses and evidence they intend to present at the hearing in support of their position.

7. An exhibit is any document or other tangible item the party wishes the ALJ to consider in reaching a decision in this matter.

8. Witness lists shall include a description of the witnesses' testimony and the witnesses' last known address and telephone number. Witnesses are those persons who will testify under oath on behalf of a party.

9. As referenced in this Decision, serving a party with any document (*e.g.*, witness and exhibit lists and exhibits) means that the party is required to give the document to the other parties to the proceeding. Service may be accomplished by United States Mail, or through the Commission's E-filing system, if the party being served is registered with the E-filing system.

10. As referenced in this Decision, filing a document means that the party must provide the document to the Commission and must include the proceeding number with that document.

11. All parties are advised that this proceeding is governed by the Rules of Practice and Procedure found at 4 *Code of Colorado Regulations* (CCR) 723-1, and the Rules Regulating Transportation by Motor Vehicle found at 4 CCR 723-6, which are available on the Commission's website at www.dora.colorado.gov/puc, and in hard copy from the Commission. This proceeding is also governed by the Colorado Rules of Evidence, which can be found at the following link, under the "Colorado Court Rules" tab: <http://www.lexisnexis.com/hottopics/colorado/>.

12. Non-attorneys will be held to the same standards as attorneys.

13. All parties are advised that failure to make disclosures as required by this Decision may result in an order dismissing the Application without prejudice, an order preventing an intervener from participating in this proceeding, or an order preventing the party who violates this order from presenting witnesses and evidence at the evidentiary hearing.

II. ORDER

A. **It Is Ordered That:**

1. A hearing on the merits of the Application of CoY Club, LLC, doing business as Denver Bar Cart (Applicant) for a Permit to Operate as a Common Carrier by Motor Vehicle for Hire is scheduled as follows:

DATES: August 4, 5, 6, and 7, 2014

TIMES: 9:15 a.m. MST each day, except on August 6, 2014, to commence at 10:00 a.m. MST

PLACE: Colorado Public Utilities Commission
Commission Hearing Room
1560 Broadway, 2nd Floor
Denver, Colorado

2. At the above date, time, and place you will be given the opportunity to be heard if you so desire.

3. On or by 5:00 p.m. MST on June 20, 2014, Colorado Cruisers Inc., doing business as Colorado Crewz-In (Colorado Cruisers) shall file and serve the exhibits referenced in its June 10, 2014 filing entitled “Response to Show Cause Order Re: Why Legal Counsel Is Not Required” (Response). In addition, by that same deadline, Colorado Cruisers shall file and serve a supplement to its Response which designates one individual to represent Colorado Cruisers; the supplement must provide a factual basis for the ALJ to conclude that the designated individual has authority to represent Colorado Cruisers in this proceeding.

4. The disclosure timeframes required by Rule 1405(k)(I) and (II), 4 *Code of Colorado Regulations* 723-1 are waived. A new disclosure schedule is set forth below.

5. On or by 5:00 p.m. MST on July 7, 2014, Applicant shall file and serve exhibit and witness lists and exhibits.

6. On or by 5:00 p.m. MST on July 21, 2014, MKBS LLC, doing business as Metro Taxi, Taxis Fiesta, South Suburban Taxi, Northwest Suburban Taxi, Colorado Cab Company LLC, doing business as Denver Yellow Cab and Boulder Yellow Cab, Shamrock Taxi of Fort Collins Inc., Colorado Springs Transportation LLC, and Colorado Cruisers shall file and serve exhibit and witness lists and exhibits.

7. Witness lists shall include a description of the witnesses’ anticipated testimony, the witnesses’ name and job title, (if any), and the witnesses’ last known address and telephone number.

8. All exhibits shall be identified by sequential numbers (e.g., Exhibit 1, Exhibit 2, Exhibit 3). The parties shall work together to coordinate sequential numbering of exhibits

(e.g., Applicant may be designated exhibit numbers 1-100 and interveners may have the next block series of exhibit numbers according to the order in which they intervened).

9. Exhibits shall include the following information: exhibit number, proceeding number, name of the witness who will testify to the exhibit's foundation, and the date of the hearing. The parties must have all their exhibits stamped and properly identified prior to the time the hearing is scheduled to begin.

10. On or by 5:00 p.m. on July 30, 2014, the parties shall file a single document which sets forth the order in which all witnesses will be called and the estimated amount of time each party will use to examine such witnesses. Applicant is directed to coordinate the filing of the joint document.

11. At the hearing, the parties shall bring an original and two copies of each pre-marked exhibit they intend to introduce, along with a completed exhibit list in the format set forth in Appendix A to this Decision. In addition, the parties shall ensure that a copy of their pre-marked exhibits are provided to each other for use during the hearing; the parties have discretion to provide these copies prior to the time of the hearing.

12. If any exhibit is longer than two pages, the party offering the exhibit shall sequentially number *each page* of the exhibit.

13. Except as stated above, failure to file and serve witness lists as required by this Decision, except for witnesses called in rebuttal, may result in an order prohibiting any undisclosed witnesses from testifying.

14. Failure to file and serve exhibits as required by this Decision, except exhibits for rebuttal or impeachment, may result in an order rejecting the admission of undisclosed exhibits.

15. Any party wishing to file a post-hearing statement of position must file and serve it by 5:00 p.m. MST on August 21, 2014.

16. This Decision is effective immediately.

(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