

Decision No. R14-0819-I

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 14A-0554BP

IN THE MATTER OF THE APPLICATION OF DISABILITY SERVICES, INC., DOING BUSINESS AS AMBLICAB, FOR A PERMIT TO OPERATE AS A CONTRACT CARRIER BY MOTOR VEHICLE FOR HIRE.

**INTERIM DECISION OF
ADMINISTRATIVE LAW JUDGE
MANA L. JENNINGS-FADER
REQUIRING APPLICANT TO MAKE FILING;
VACATING PROCEDURAL SCHEDULE;
NOTIFYING PARTIES THAT APPLICATION
HAS BEEN DEEMED COMPLETE; AND
CONTAINING ADVISEMENTS**

Mailed Date: July 15, 2014

I. STATEMENT

1. On May 29, 2014, Disability Services, Inc., doing business as Amblicab (Amblicab or Applicant), filed an Application for New Permanent Authority to Operate as a Contract Carrier of Passengers by Motor Vehicle for Hire. Attached to the filing are several documents. That filing commenced this Proceeding.

2. On May 30, 2014, Applicant filed a supplement to the May 29, 2014 filing. On June 10, 2014, Applicant filed an amendment and a second supplement to the May 29, 2014 filing. Unless the context indicates otherwise, reference in this Interim Decision to the Application is the May 29, 2014 filing as amended and supplemented.

3. On June 2, 2014, the Commission issued its Notice of Application Filed (Notice) in this Proceeding (Notice at 4); established an intervention period; and established a procedural schedule. This Interim Decision will vacate the procedural schedule.

4. On July 2, 2014, Colorado Springs Transportation, LLC (CST), timely filed (in one document) its Entry of Appearance and Notice of Intervention by Right, Alternative Motion for Permissive Intervention, and Request for a Hearing. By that filing, CST establishes that it is an intervenor by right; thus, it is a party in this Proceeding. CST opposes the Application.

5. The intervention period has expired. No other person has filed an intervention of right or a motion for leave to intervene. In addition, as of the date of this Interim Decision, there is no pending motion for leave to intervene out-of-time.

6. CST is the Intervenor. Applicant and Intervenor, collectively, are the Parties. Each party is represented by legal counsel.

7. On July 9, 2014, by Minute Order, the Commission referred this matter to an Administrative Law Judge (ALJ).

A. Application Deemed Complete and Time for Commission Decision.

8. On July 9, 2014, by Minute Order, the Commission deemed the Application complete as of that date. When it filed the Application, Amblicab provided neither its supporting testimony and exhibits nor a detailed summary of its direct testimony and copies of its exhibits in support of the Application.

9. Pursuant to § 40-6-109.5(2), C.R.S., and absent an enlargement of time by the Commission¹ or Applicant's waiver of the statutory provision, a Commission decision on the Application should issue no later than 210 days from the date on which the Commission deemed

¹ Section 40-6-109.5(4), C.R.S., permits the Commission to extend the time for decision an additional 90 days upon a finding of extraordinary conditions.

the Application to be complete. The Commission should issue its decision on the Application on or before **March 4, 2015**.

B. Applicant to Make Filing Regarding Procedural Schedule and Evidentiary Hearing.

10. Intervenor opposes the Application and requests an evidentiary hearing in this matter. Thus, it is necessary to establish a procedural schedule and to schedule the evidentiary hearing. In addition, it is necessary to address issues pertaining to discovery and pertaining to the treatment of information claimed to be confidential. To accomplish this, the ALJ will order Applicant, through its counsel Allison Tyler, Esquire, to consult with Intervenor and to make, on or before **August 1, 2014**, a filing that: (a) contains a procedural schedule, including hearing date, that is satisfactory to all Parties; and (b) addresses the issues discussed below. The ALJ will order Intervenor to cooperate with Applicant with respect to this filing.

11. Applicant requests that the evidentiary hearing be held in El Paso County, Colorado. June 10, 2014 supplement at 6.

12. The procedural schedule filing must contain at least the following: (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, only as necessary to correct errors in the previous filings, 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;² (e) the date by which the Parties will file any stipulation or

² This date can be no later than ten calendar days before the first day of hearing.

settlement agreement reached;³ (f) *three* proposed evidentiary hearing dates;⁴ and (g) a statement as to whether the Parties wish to make oral closing statements at the conclusion of the evidentiary hearing.

13. In considering proposed 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 March 4, 2015. To allow time for issuance of a recommended decision, filing of exceptions, filing of response to exceptions, and issuance of a Commission decision on exceptions, and taking into consideration the holiday season, the **hearing in this matter must be concluded not later than December 12, 2014.**

14. Unless modified, Rule 4 *Code of Colorado Regulations* (CCR) 723-1-1405⁵ governs discovery. The August 1, 2014 filing must contain: (a) any modifications or special provisions that the Parties wish the ALJ to order with respect to discovery; and (b) an explanation of the need for the requested modifications or special provisions.

15. Rules 4 CCR 723-1-1100 and 723-1-1101 govern the treatment of information claimed to be confidential. If the procedures and timeframes contained in Rules 4 CCR 723-1-1100 and 723-1-1101 are not adequate, the August 1, 2014 filing must contain: (a) any special provisions that the Parties wish the ALJ to order with respect to the treatment of information claimed to be confidential; and (b) an explanation of the need for the requested provisions.

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

⁴ If possible, the ALJ will choose one of the proposed hearing dates.

The ALJ notes that 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, Applicant should propose three “sets” of hearing dates. Within each proposed “set,” the hearing days should be consecutive within the same week (*i.e.*, no intervening weekends and no intervening State holidays).

⁵ This Rule is found in the Rules of Practice and Procedure, Part 1 of 4 *Code of Colorado Regulations* 723.

16. When the August 1, 2014 filing is received, the ALJ will issue an Interim Decision scheduling the evidentiary hearing and establishing the procedural schedule.

17. **The Parties are advised, and are on notice, that** if Applicant fails to make the August 1, 2014 filing regarding the proposed hearing dates and proposed procedural schedule to which the Parties agree, the ALJ will schedule the evidentiary hearing and will establish the procedural schedule without input from the Parties.

18. **The Parties are advised, and are on notice, that** the testimony in this Proceeding will be presented through oral testimony at the evidentiary hearing. For each witness (except a witness offered in Applicant's rebuttal case), the following information must be provided: (a) the witness's name; (b) the witness's address; (c) the witness's business or daytime telephone number; and (d) a detailed statement of the testimony that the witness is expected to provide. This information will be provided on the list of witnesses to be filed in accordance with the procedural schedule. No person will be permitted to testify (except in Applicant's rebuttal case) unless that person is identified as required on the list of witnesses.

19. **The Parties are advised, and are on notice, that** 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 in advance of the hearing. The exhibits will be filed in accordance with the procedural schedule. No document will be admitted as an exhibit (except when offered in Applicant's rebuttal case or when used in cross-examination) unless a complete copy of the document is filed in advance of the hearing.

C. Additional Advisements.

20. **The Parties are advised, and are on notice, that** the Parties 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 dora.colorado.gov/puc.

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

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

II. ORDER**A. It Is Ordered That:**

1. Colorado Springs Transportation, LLC, is a party in this Proceeding.
2. The procedural schedule established in the Notice of Application Filed dated June 2, 2014 is vacated.
3. Not later than August 1, 2014, Disability Services, Inc., doing business as Amblicab, shall make a filing that complies with the requirements of ¶¶ 10-15, above.
4. Colorado Springs Transportation, LLC, shall cooperate with Disability Services, Inc., doing business as Amblicab, in the preparation of the filing required by Ordering Paragraph No. 3.
5. Consistent with the discussion above, if Disability Services, Inc., doing business as Amblicab, fails to make the filing required by Ordering Paragraph No. 3,

the Administrative Law Judge, without input from the Parties, will schedule the evidentiary hearing and will establish the procedural schedule.

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