

Decision No. R14-0834-I

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 14A-0409CP

IN THE MATTER OF THE APPLICATION OF DOCTOR PARK SHUTTLE 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
MANA L. JENNINGS-FADER
SCHEDULING EVIDENTIARY HEARING,
ESTABLISHING PROCEDURAL SCHEDULE,
SHORTENING RESPONSE TIME TO MOTIONS
PERTAINING TO DISCOVERY AND MOTIONS
FOR LEAVE TO PRESENT TESTIMONY BY
TELEPHONE, AND CONTAINING ADVISEMENTS**

Mailed Date: July 16, 2014

I. STATEMENT

1. On May 2, 2014, Doctor Park Shuttle Company, LLC (DPSC or Applicant), filed an Application for a Certificate of Public Convenience and Necessity to Operate as a Common Carrier by Motor Vehicle for Hire. That filing commenced this Proceeding.

2. On May 5, 2014, DPSC filed two amendments to the May 2, 2014 filing and filed a supplement to the May 2, 2014. Unless the context indicates otherwise, reference in this Interim Decision to the Application is to the May 2, 2014 filing as amended and supplemented on May 5, 2014.

3. On May 5, 2014, the Commission issued its Notice of Application Filed (Notice) in this Proceeding (Notice at 5); established an intervention period; and established a procedural schedule. On June 23, 2014, Decision No. R14-0681-I vacated that procedural schedule.

4. The following timely intervened as of right: AEX, Inc., doing business as Alpine Express (Alpine Express); and Dolly's Mountain Shuttle, LLC (DMS).

5. Alpine Express and DMS, collectively, are the Intervenors. Applicant and Intervenors, collectively, are the Parties. Each party is represented by legal counsel.

6. On June 11, 2014, by Minute Order, the Commission referred this matter to an Administrative Law Judge (ALJ).

7. On June 11, 2014, by Minute Order, the Commission deemed the Application complete as of that date. 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 not later than January 7, 2015.

8. By Decision No. R14-0681-I, the ALJ required Applicant to consult with Intervenors and to make a filing that: (a) contained a procedural schedule, including hearing date, that is satisfactory to the Parties; and (b) addressed the issues discussed in that Interim Decision.

9. On July 11, 2014, Applicant filed the Proposed Procedural Schedule. In that filing, Applicant states that no party objects to the proposed dates.

10. The ALJ will schedule the evidentiary hearing in this matter for **October 15 and 16, 2014**. The Parties proposed a one-day hearing. The ALJ finds that, by scheduling a two-day hearing, it is more likely that the hearing can be completed without having to schedule additional days. The two scheduled dates are dates that the Parties proposed. Holding the evidentiary

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.

hearing on these two dates will permit the Commission to issue its decision in this Proceeding not later than January 7, 2015.

11. In general, the ALJ finds the proposed procedural schedule satisfactory. The ALJ will change the date for submission of a stipulation or settlement because October 13, 2014 (the date proposed by Applicant) is a State holiday.

12. The ALJ will order the following procedural schedule: (a) not later than **September 2, 2014**, Applicant will file its list of witnesses in its direct case and complete copies of the exhibits that it will offer in its direct case; (b) not later than **September 9, 2014**, each intervenor will file its list of witnesses and complete copies of the exhibits that it will offer in its case; (c) not later than **September 15, 2014**, Applicant will file, only if necessary to correct an error in its previous filing, a corrected list of witnesses and complete copies of the corrected exhibits that it will offer in its case; (d) not later than **September 22, 2014**, each intervenor will file, only if necessary to correct an error in its previous filing, a corrected list of witnesses and complete copies of the corrected exhibits that it will offer in its case; (e) not later than **September 29, 2014**, each party will file its prehearing motions, including dispositive motions and motions *in limine*;² (f) not later than **noon on October 10, 2014**, the Parties will file any settlement agreement or stipulation that they have reached;³ and (g) the Parties will make oral closing arguments at the conclusion of the evidentiary hearing.

13. Each witness who will be called to testify (except a witness called in Applicant's rebuttal case) must be identified on the list of witnesses that ¶ 12 requires each party to file.

² As a preliminary matter at the evidentiary hearing, the ALJ will hear argument on any pending prehearing motion.

³ This is a change from the proposed procedural schedule.

The list of witnesses must contain the following information for each listed witness: (a) the name of the witness; (b) the address of the witness; (c) the business telephone number or daytime telephone number of the witness; and (d) a detailed summary of the testimony that the witness is expected to give.

14. **The Parties are advised, and are on notice, that** no person will be permitted to testify on behalf of a party (except in Applicant's rebuttal case) unless the person is identified on the list of witnesses filed in accordance with this Interim Decision.

15. **The Parties are advised, and are on notice, that**, absent an order, no witness may present testimony by telephone. If a party desires to have a witness testify by telephone, the party must file an appropriate motion not later than the date for filing prehearing motions. Unless otherwise ordered, responses to such a motion must be written and must be filed within *three business days of service of the motion*.⁴ The ALJ will rule, as soon as practicable, on a motion for leave to present testimony by telephone.

16. 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 as required in ¶ 12.

17. **The Parties are advised, and are on notice, that** no document -- *including the Application and its supporting documents* -- will be admitted into evidence (except in Applicant's rebuttal case or when used in cross-examination) unless that document is filed in accordance with this Interim Decision.

⁴ By this Interim Decision, the ALJ will shorten the response time to this type of motion.

18. Rule 4 *Code of Colorado Regulations* (CCR) 723-1-1405⁵ will govern discovery in this Proceeding.

19. Motions pertaining to discovery may be filed at any time. Unless otherwise ordered, responses to such motions must be written and must be filed within *three business days of service of the motion*.⁶ If necessary, the ALJ will hold a hearing on a discovery-related motion as soon as practicable after the motion is filed.

20. Rules 4 CCR 723-1-1100 and 723-1-1101 will govern the treatment of information claimed to be confidential.

21. **The Parties are advised, and are on notice, that** it is the responsibility of each party to have, at the evidentiary hearing, a sufficient number of copies of each document that the party wishes to offer as an exhibit.⁷ **The Parties are advised, and are on notice, that** the fact that exhibits are prefiled in accordance with this Interim Decision does *not* alter the requirement set out in this paragraph.

22. The Parties are reminded that, in Decision No. R14-0681-I, the ALJ advised the Parties that the ALJ requires the Parties to comply with the Rules of Practice and Procedure, Part 1 of 4 CCR 723.

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

⁶ By this Interim Decision, the ALJ will shorten the response time to discovery-related motions.

⁷ This means that, at the hearing, a party must have a sufficient number of copies of each document to provide: one to be marked and retained by the Commission as the hearing exhibit; one to be given to each of the other parties; one to be given to the ALJ; and one to be retained by the party offering the exhibit.

II. ORDER

A. It Is Ordered That:

1. The evidentiary hearing in this matter shall be held on the following dates, at the following times, and in the following location:

DATES: October 15 and 16, 2014

TIME: 9:00 a.m. each day

PLACE: Gunnison County Courthouse
117 North Iowa Street
Gunnison, Colorado

2. The following procedural schedule is adopted: (a) not later than September 2, 2014, Doctor Park Shuttle Company, LLC (Applicant), shall file its list of witnesses in its direct case and complete copies of the exhibits that it will offer in its direct case; (b) not later than September 9, 2014, each intervenor shall file its list of witnesses and complete copies of the exhibits that it will offer in its case; (c) not later than September 15, 2014, Applicant shall file, only if necessary to correct an error in its previous filing, a corrected list of witnesses and complete copies of the corrected exhibits that it will offer in its case; (d) not later than September 22, 2014, each intervenor shall file, only if necessary to correct an error in its previous filing, a corrected list of witnesses and complete copies of the corrected exhibits that it will offer in its case; (e) not later than September 29, 2014, each party shall file its prehearing motions, including dispositive motions and motions *in limine*; (f) not later than noon on October 10, 2014, the Parties shall file any settlement agreement or stipulation that they have reached; and (g) the Parties shall make oral closing arguments at the conclusion of the evidentiary hearing.

3. No person shall be permitted to testify on behalf of a party (except in Applicant's rebuttal case) unless the person is identified on the list of witnesses filed in accordance with this Interim Decision.

4. Absent an order, no person shall be permitted to present testimony by telephone. If a party desires to have a witness testify by telephone, the party shall file an appropriate motion not later than the date for filing prehearing motions.

5. Response time to a motion to present testimony by telephone is shortened to three business days.

6. No document shall be admitted into evidence (except in Applicant's rebuttal case or when used in cross-examination) unless that document is filed in accordance with this Interim Decision.

7. Rule 4 *Code of Colorado Regulations* 723-1-1405 governs discovery.

8. Response time to a motion pertaining to discovery is shortened to three business days.

9. Rules 4 *Code of Colorado Regulations* 723-1-1100 and 723-1-1101 govern the treatment of information claimed to be confidential.

10. The Parties are held to the advisements in the Interim Decisions issued in this Proceeding.

11. 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