

Decision No. R14-0839-I

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 14A-0327CP

IN THE MATTER OF THE APPLICATION OF PIKES PEAK SATCOM, INC., DOING BUSINESS AS NEW INTERCONTINENTAL EXPRESS 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
REQUIRING MAGIC BUS AND CITY CAB
TO SHOW CAUSE WHY THEY SHOULD
NOT BE DISMISSED AS PARTIES**

Mailed Date: July 17, 2014

I. STATEMENT, FINDINGS AND CONCLUSIONS

1. Only those portions of the procedural history necessary to understand this Decision are included.

2. Pikes Peak SATCOM, Inc., doing business as New Intercontinental Express (Applicant), filed an Application for a Certificate of Public Convenience and Necessity to Operate as a Common Carrier by Motor Vehicle for Hire (Application) with the Colorado Public Utilities Commission (Commission) on April 10, 2104. Applicant amended its Application on April 16, 2014, and again on May 13, 2014 (second amended Application).

3. City Cab Co. (City Cab), MT Acquisitions, LLC, doing business as Mountains Taxi, Banaadir Transportation Company, Estes Valley Transport, Inc., Colorado Springs Shuttle, LLC, Colorado Coach Transportation, LLC, Ramblin' Express Inc., Valera Lea Holtorf, doing business as Dashabout Shuttle Company and Roadrunner Express, Almaz Transportation, LLC,

MKBS, LLC, doing business as Metro Taxi, SuperShuttle International Denver, Inc., Colorado Cab Company LLC, doing business as Denver Yellow Cab and Boulder Yellow Cab, Boulder SuperShuttle, Colorado Springs Transportation, LLC, Mercy Medical Transportation Services, LLC, Hy-Mountain Transportation, Inc., doing business as High Mountain Taxi, Magic Bus, LLC (Magic Bus), Home James Transportation Services, Ltd., Alpine Taxi/Limo, doing business as Alpine, and Go Alpine, AEX, doing business as Alpine Express (AEX), and Tazco, Inc., doing business as Sunshine Taxi (Sunshine Taxi) filed timely interventions objecting to the second amended Application.

4. During the Commission's weekly meeting held June 25, 2014, the Commission deemed the Application complete and referred the proceeding to an administrative law judge (ALJ) for disposition.

5. In anticipation of the hearing on the second amended Application, the undersigned 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 July 15, 2014 at 10:00 a.m. Decision No. R14-0724-I issued June 30, 2014.

6. On June 30, 2014, the ALJ ordered that, by 5:00 p.m. on July 14, 2014, Magic Bus, AEX, and Sunshine Taxi must have an entry of appearance filed on their behalf, or make a filing showing cause why they are not required to be represented by an attorney licensed to practice law before the Colorado Supreme Court. Decision No. R14-0725-I; *see* Rule 1201, 4 CCR 723-1.

7. The same Decision also required that, by 5:00 p.m. on July 14, 2014, Magic Bus file a copy of its authority or permit as required by Rule 1401(e)(I), 4 CCR 723-1.

8. Entries of appearance were timely filed for Sunshine and AEX on July 11, 2014. The ALJ finds that Sunshine and AEX complied with Decision No. R14-0725-I. Magic Bus made no timely filings in compliance with Decision No. R14-0725-I.

9. At the date, time, and location designated, the ALJ convened the prehearing conference. Except for Magic Bus and City Cab, all parties appeared at the prehearing conference.¹

10. At the prehearing conference, the parties agreed to, and the ALJ approved hearing dates and a procedural schedule, which is set forth in Decision No R14-0837-.

11. As of the time of the prehearing conference, Magic Bus had made no filing to comply with Decision No. R14-0725-I.

12. At 12:56 p.m. on July 15, 2014, after the prehearing conference was concluded, an Entry of Appearance was filed for Magic Bus, along with a copy of Magic Bus's certificate of authority. Neither filing requests an extension of time to comply with Decision No. R14-0725-I, nor do the filings indicate any cause whatever for the late filings.

13. More importantly, Magic Bus and City Cab's failure to appear at the prehearing conference amounts to a failure to prosecute their interventions.

14. Decision No. R14-0724-I, ¶ 9 specifically warns Magic Bus and City Cab that failure to appear at the prehearing conference may result in a decision denying them the ability to participate in this proceeding.

¹ Almaz and Banaadir are no longer parties, since their interventions were stricken and they were dismissed as parties on July 2, 2014. Decision No. R14-0746-I. Neither Almaz nor Banaadir appeared at the prehearing conference. The parties that did appear at the prehearing conference, did so through counsel.

15. Because Magic Bus failed to make timely filings in compliance with Decision No. R14-0725-I and failed to appear at the properly noticed prehearing conference, the ALJ will order Magic Bus to make a filing showing cause why its intervention should not be stricken and why it should not be dismissed as a party.

16. Likewise, because City Cab failed to appear at the prehearing conference, the ALJ will order City Cab to show cause why its intervention should not be stricken and why it should not be dismissed as a party.

17. Failure to make a timely filing in compliance with this Decision may result in a Decision striking Magic Bus and City Cab's interventions and a decision dismissing them as parties to this proceeding.

II. ORDER

A. It Is Ordered That:

1. On or by 5:00 p.m. on July 23, 2014, Magic Bus LLC must make a filing showing cause why its intervention should not be stricken and why it should not be dismissed as a party for failing to appear at the prehearing conference and failing to make timely filings in compliance with Decision No. R14-0725-I.

2. On or by 5:00 p.m. on July 23, 2014, City Cab Co., must make a filing showing cause why its intervention should not be stricken and why it should not be dismissed as a party for its failure to appear at the prehearing conference.

3. 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