

Decision No. R14-0848-I

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 14A-0355CP-EXTENSION

IN THE MATTER OF THE APPLICATION OF MOUNTAIN CONCIERGE, LLC TO
EXTEND OPERATIONS UNDER 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
SCHEDULING HEARING AND
ESTABLISHING PROCEDURAL DEADLINES**

Mailed Date: July 21, 2014

I. STATEMENT, FINDINGS, AND CONCLUSIONS

1. Mountainside Concierge, LLC (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 18, 2014. Applicant amended its Application on April 28, 2014 (amended Application).

2. The Commission gave public Notice of the second amended Application on May 19, 2014.

3. San Miguel Mountain Ventures, LLC, doing business as Telluride Express, Montrose Express and Wild West Tours (San Miguel), and Durango Taxi, LLC (Durango Taxi) timely intervened of right in objection to the authority sought by the amended Application.

4. In anticipation of the hearing, the undersigned Administrative Law Judge (ALJ) scheduled a telephone prehearing conference in accordance with Rule 1409(a) of the

Rules of Practice and Procedure, 4 *Code of Colorado Regulations* (CCR) 723-1. Decision No. R14-0747-I issued July 2, 2014.

5. The prehearing conference was convened as noticed on July 15, 2014. All parties appeared. In particular, Mr. Anthony Edwards Esq., appeared on behalf of Applicant; Mr. Milton Williams (a non-attorney) appeared on behalf of Durango Taxi; and Mr. Mark Rovito (a non-attorney), appeared on behalf of San Miguel. During the prehearing conference, the parties agreed to and the ALJ approved hearing dates and a procedural schedule, which is set forth below.

6. All parties agreed during the prehearing conference that the hearing should be held in Silverton or Durango, Colorado. The ALJ has secured a location for the hearing in Silverton, Colorado, that is, the Town of Silverton Municipal Court.¹

7. In anticipation of the hearing on the Application, the parties are ordered to make disclosures of the witnesses and evidence they intend to present at the hearing in support of their position.

8. The parties are advised that they must file and serve a witness list even if the party intends to call only one witness to testify on its behalf.

¹ Upon securing this location, the ALJ discovered that counsel for Applicant is the judge both for the Silverton Municipal Court, and the San Juan Combined Courts (also located in Silverton). The ALJ notified the parties of this fact by email on July 17, 2014, and asked if any party objected to using the Town of Silverton Municipal Court given that counsel for Applicant presides in said courtroom when acting as Municipal Court Judge. No parties responded. The ALJ perceives no conflict with holding the hearing at the Town of Silverton Municipal Court. Moreover, there are few locations appropriate for holding a hearing in the Town of Silverton. Thus, the ALJ will schedule the hearing at the Town of Silverton Municipal Court. If any party objects, they may do so by making a filing in this proceeding within 10 calendar days of the date this Decision is mailed. Failure to object amounts to a waiver of any objection to the hearing being held at the Silverton Municipal Court.

9. Likewise, if a party intends to introduce only one document in support of its case, the party still must file and serve an exhibit list and the exhibit. An exhibit is any document or other tangible item the party wishes the ALJ to consider in reaching a decision in this matter.

10. 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.

11. All parties are advised that this proceeding is governed by the Rules of Practice and Procedure found at 4 CCR 723-1, the Rules Regulating Transportation by Motor Vehicle found at 4 CCR 723-6, Part 6, and applicable statutory authority and case law. The ALJ expects the parties to comply with the Rules of Practice and Procedure. Both sets of rules are available on the Commission's website at www.dora.colorado.gov/puc and in hard copy from the Commission.

12. In addition, this proceeding is also governed by the Colorado Rules of Evidence, a free copy of which can be found at the following link, under the "Colorado Court Rules" tab: <http://www.lexisnexis.com/hottopics/colorado/>.

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

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

II. ORDER

A. It Is Ordered That:

1. A hearing on the merits of the Application for a Certificate of Public Convenience and Necessity to Operate as a Common Carrier by Motor Vehicle for Hire filed by Mountainside Concierge LLC (Applicant), is scheduled as follows:

DATES: September 24 and 25, 2014
TIME: 9:15 a.m. each day
PLACE: Town of Silverton Municipal Court
1360 Greene Street
Silverton, Colorado 81433

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

3. Applicant shall file and serve exhibit and witness lists and exhibits on or by 5:00 p.m. MST on August 14, 2014.

4. San Miguel Mountain Ventures, LLC (San Miguel) and Durango Taxi, LLC (Durango Taxi) shall file and serve exhibit and witness lists and exhibits on or by 5:00 p.m. MST on August 28, 2014.

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

6. 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 have exhibit numbers 1-100, while San Miguel has exhibit numbers 101-200, and Durango Taxi has exhibit numbers 201-300).

7. 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 properly identified prior to the time the hearing is scheduled to begin.

8. At the hearing, the parties shall bring an original and three 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. The original and one copy will be provided to the ALJ and court reporter, while the remaining copies shall be provided to the other parties.

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

10. No witness will be permitted to testify, except in rebuttal, unless that witness is identified on a list of witnesses filed and served as required herein.

11. No exhibit will be received in evidence, except in rebuttal, unless filed and served as required herein.

12. 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