

Decision No. R14-0898-I

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 14A-0612BP

IN THE MATTER OF THE APPLICATION OF CAREPROX LLC, FOR A PERMIT TO OPERATE AS A CONTRACT CARRIER BY MOTOR VEHICLE FOR HIRE.

**INTERIM DECISION OF
ADMINISTRATIVE LAW JUDGE
ROBERT I. GARVEY
PERMITTING APPLICANT TO PROCEED
WITHOUT LEGAL COUNSEL AND
SETTING PREHEARING CONFERENCE**

Mailed Date: July 29, 2014

I. STATEMENT

1. On June 4, 2014, Careprox LLC. (Careprox or Applicant), filed an Application for a Certificate of Public Convenience and Necessity to Operate as a Contract Carrier by Motor Vehicle for Hire (Application). That filing commenced this proceeding.

2. On June 13, 2014, and on June 16, 2014, Careprox filed amendments to the Application.

3. On June 16, 2014, the Commission issued its Notice of Application Filed (Notice) in this proceeding by publishing a summary of the same in its Notice as follows:

For authority to operate as a contract carrier by motor vehicle for hire for the transportation of

passengers

between all points in the Counties of Adams, Arapahoe, Boulder, Broomfield, Denver, and Jefferson, State of Colorado.

RESTRICTIONS: This application is restricted:

- (A) to the transportation of passengers who are recipients of Medicaid;
- (B) to providing Non-Emergency Medical Transportation (NEMT) services for the Colorado Department of Health Care Policy and Financing, 1570 Grant Street, Denver, Colorado;
- (C) against more than two vehicles providing NEMT service at any given time;
- (D) against providing transportation services to or from Denver International Airport; and,
- (E) against providing transportation to or from hotels and motels.

4. On June 30, 2014, MKBS, LLC, doing business as Metro Taxi and/or Taxis Fiesta and/or South Suburban Taxi (Metro Taxi) filed their Entry of Appearance and Notice of Intervention of Right through counsel. This filing attached Commission Authority No. 1481 held by Metro Taxi and a preliminary list of witnesses and exhibits.

5. On July 16, 2014, Colorado Cab Company LLC (Colorado Cab), doing business as, Denver Yellow Cab and Boulder Yellow Cab, timely intervened of right through counsel. This filing attached Commission Authority No. 2378 and No. 150 held by Colorado Cab.

6. On July 23, 2014, by Minute Order, the Commission referred this matter to an Administrative Law Judge (ALJ).

A. Application Deemed Complete and Time for Commission Decision.

7. On July 23, 2014, by Minute Order, the Commission deemed the Application complete as of that date. When it filed the Application, Careprox 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.

8. 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 on or before 210 days from the date on which the Commission deemed the Application to be complete.

B. Legal Counsel/Self Representation

9. *Rule 1201(a) of the Rules of Practice and Procedure, 4 Code of Colorado Regulations (CCR) 723-1*, requires a party in a proceeding before the Commission to be represented by an attorney except that, pursuant to *Rule 1201(b)*, 4 CCR 723-1, and as relevant here, an individual who is not an attorney may appear to represent the interests of a closely-held entity, provided the Commission grants permission.

10. Applicant is a limited liability corporation, is a party in this matter, and is not represented by an attorney in this proceeding.

11. The ALJ notes that the application of Careprox was executed by Victor Gab-Ojukwu who wishes to represent the Applicant. The application does not identify Mr. Gab-Ojukwu as an attorney. In order to be represented in this matter by an individual who is not an attorney, Applicant must establish that: (a) it is a closely-held entity within the meaning of § 13-1-127(1)(a), C.R.S.; (b) the amount in controversy does not exceed \$ 15,000; and (c) the individual who will represent Applicant has authority to represent Applicant.

12. In the Application and the amendment to the Application filed on June 16, 2014, Mr. Gab-Ojukwu attests that he is an owner of Careprox, there are three or fewer owners of Careprox, and that the amount in controversy does not exceed \$15,000.

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.

13. Review of the information provided by Mr. Gab-Ojukwu and the information provided in the Application establishes that Careprox is a closely-held entity within the meaning of § 13-1-127(1)(a), C.R.S., the amount in controversy is less than \$15,000, and Mr. Gab-Ojukwu has authority to represent the Applicant.

14. Having met the requirements of *Rule 1201(b)*, 4 CCR 723-1, Mr. Gab-Ojukwu shall be allowed to represent Careprox.

15. Applicant is advised, and is on notice, that Mr. Gab-Ojukwu is the only non-attorney who is authorized to be Careprox's representative in this proceeding.

16. Mr. Gab-Ojukwu is advised, and is on notice, that he shall be bound by the same procedural and evidentiary rules as attorneys. The Colorado Supreme Court has held that,

[b]y electing to represent himself [in a criminal proceeding,] the defendant subjected himself to the same rules, procedures, and substantive law applicable to a licensed attorney. A pro se defendant cannot legitimately expect the court to deviate from its role of impartial arbiter and [to] accord preferential treatment to a litigant simply because of the exercise of the constitutional right of self-representation.

People v. Romero, 694 P.2d 1256, 1266 (Colo. 1985).

This standard applies as well to civil proceedings.

Negron v. Golder, 111 P.3d 538, 541 (Colo. App. 2004).

If a litigant, for whatever reason, presents his own case to the court, he is bound by the same rules of procedure and evidence as bind those who are admitted to practice law before the courts of this state.

Loomis v. Seely, 677 P.2d 400, 402 (Colo. App. 1983).

A judge may not become a surrogate attorney for a *pro se* litigant.

Id.

C. Prehearing Conference

17. Given the procedural posture of the case, it is appropriate to hold a prehearing conference to address several issues. The parties to this proceeding should be prepared to

discuss all procedural and substantive issues, including, but not limited to, deadlines for witness lists, exhibits, and a date for a hearing on the Application.

18. A pre-hearing conference in this matter will be scheduled as ordered.

II. ORDER

A. It Is Ordered That:

1. A prehearing conference is scheduled in this matter as follows:

DATE: August 12, 2014

TIME: 9:00 a.m.

PLACE: Hearing Room
Colorado Public Utilities Commission
1560 Broadway, Suite 250
Denver, Colorado

2. Careprox LLC, is authorized to proceed with Mr. Gab-Ojukwu as its non-attorney representative in this matter. Mr. Gab-Ojukwu is the only non-attorney who is authorized to represent Careprox LLC, in this Proceeding.

3. The Parties shall be held to the advisements in this Decision.

4. This Decision is effective immediately.

(S E A L)



THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

ROBERT I. GARVEY

Administrative Law Judge

ATTEST: A TRUE COPY

A handwritten signature in cursive script that reads 'Doug Dean'.

Doug Dean,
Director