

Decision No. R14-1242

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 14A-0581BP

IN THE MATTER OF THE APPLICATION OF OBJAY & OBKAY SERVICES LLP FOR A PERMIT TO OPERATE AS A CONTRACT CARRIER BY MOTOR VEHICLE FOR HIRE.

**RECOMMENDED DECISION OF
ADMINISTRATIVE LAW JUDGE
MELODY MIRBABA
GRANTING APPLICATION UNDER
MODIFIED PROCEDURE**

Mailed Date: October 14, 2014

I. STATEMENT, FINDINGS, AND CONCLUSIONS

1. On June 2, 2014, Objay and Obkay Services LLP (Applicant) filed an Application for a Permit to Operate as a Contract Carrier by Motor Vehicle for Hire (Application). Applicant filed an amendment to the Application on June 25, 2014.

2. The Commission provided public notice of the Application on July 14, 2014.

As noticed, the Application sought:

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, Clear Creek, Denver, Douglas, and Jefferson, State of Colorado.

RESTRICTIONS: This application is restricted:

- (A) to the transportation of passengers who are recipients of Medicaid; and,
- (B) to providing Non-Medical Transportation (NMT) services for the Colorado Department of Health Care Policy and Financing, 1570 Grant Street, Denver, Colorado.

3. MKBS LLC, doing business as Metro Taxi (Metro), Colorado Springs Transportation LLC, doing business as Yellow Cab Company of Colorado Springs (Colorado Springs Transportation), and Colorado Cab Company LLC, doing business as Denver Yellow Cab and Boulder Yellow Cab (Colorado Cab) filed timely interventions of right objecting to the Application.

4. During the Commission's weekly meeting held August 20, 2014, the Commission deemed the Application complete and referred it to an administrative law judge (ALJ) for disposition.

5. After holding a prehearing conference, the ALJ established procedural deadlines, and scheduled an evidentiary hearing on the Application for December 8, 2014 at the Commission's office. Decision No. R14-1105-I issued September 10, 2014. The same Decision also held that Applicant may be represented by non-attorneys in this proceeding, Mr. Olanrewaju Badmus and Mr. John Berko.

6. On September 26, 2014, Metro filed a joint "Stipulated Motion for Imposition of Restrictive Amendments and Conditional Withdrawal of Interventions."

7. On October 1, 2014, Metro filed a joint "Amended Stipulated Motion for Imposition of Restrictive Amendments and Conditional Withdrawal of Interventions" (Amended Stipulation). The Amended Stipulation is executed by all parties in this proceeding, including one of the authorized representatives for Applicant.

8. The Amended Stipulation proposes that the Application be amended to seek authority to operate as a contract carrier by motor vehicle for hire for transportation of passengers:

Between all points in the Counties of Adams, Arapahoe, Clear Creek, 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-Medical Transportation (NMT) services for the Colorado Department of Health Care Policy and Financing, 1570 Grant Street, Denver, Colorado;
- (C) against providing transportation to or from hotels, motels, and airports; and
- (D) to the operation of no more than two vehicles at one time.

Amended Stipulation, ¶ 5.

9. All interveners (Metro, Colorado Springs Transportation, and Colorado Cab) agree that if the amendments to the Application proposed by the Amended Stipulation are accepted, their interventions will be withdrawn. *Id.* at ¶ 8.

10. As all parties have signed the Amended Stipulation, the ALJ will *sua sponte* waive the response time to it. Rule 1400(b) of the Rules of Practice and Procedure 4 *Code of Colorado Regulations* (CCR) 723-1.

11. To be acceptable, the proposed amendments must be restrictive in nature, clear and understandable, and administratively enforceable. Both the contract carrier permit and any restriction on that permit must be unambiguous and must be contained wholly within the authority granted. Both must be worded so that a person will know, from reading the contract carrier permit and without having to resort to any other document, the exact extent of the

authority and of each restriction. Clarity is essential because the scope of a contract carrier permit must be found within the four corners of the authority, which is the touchstone by which one determines whether the operation of a contract carrier is within the scope of its Commission-granted authority.

12. The ALJ finds and concludes that the proposed amendments pursuant to Applicant's request in the Amended Stipulation are restrictive in nature, clear and understandable, and administratively enforceable. The restrictive amendments will be accepted.

13. Accepting the amendments to the Application has several impacts. First, the authority sought (as stated in the notice and the Application) will be amended to conform to the restrictive amendments as requested by the Amended Stipulation and as set forth in ¶ 8 above. Second, all interventions will be withdrawn. Third, as all interventions are withdrawn, the amended Application is unopposed. Pursuant to § 40-6-109(5), C.R.S., and Rule 1403, 4 CCR 723-1, the uncontested Application may be considered under the modified procedure, without a formal hearing.

14. The Application requests authority to operate as a contract carrier for motor vehicle for hire. The Application establishes that Applicant is familiar with the Rules Regulating Transportation by Motor Vehicle, 4 CCR 723-6, and agrees to be bound by, and to comply with, those Rules. The Application and its supporting documentation establish that Applicant has or will have sufficient equipment with which to render the proposed service, and is financially, operationally, and managerially fit to conduct operations under the authority requested. In addition, the Application and supporting documents establish that the service proposed is specialized and tailored to meet the customer's distinct needs. Finally, review of the Application and its supporting documentation indicates a need for the proposed service. The ALJ finds that

the Application with the proposed restrictive amendments is reasonable, and in the public interest. For the foregoing reasons, the permit should be granted.

15. In accordance with § 40-6-109, C.R.S., the ALJ now transmits the record in this proceeding along with this written recommended decision. The ALJ recommends the Commission enter the following order.

II. ORDER

A. The Commission Orders That:

1. The “Amended Stipulated Motion for Imposition of Restrictive Amendments and Conditional Withdrawal of Intervention” (Amended Stipulation) is granted.

2. The “Stipulated Motion for Imposition of Restrictive Amendments and Conditional Withdrawal of Intervention” is denied as moot.

3. The response time to the Amended Stipulation is waived.

4. The Application for a Permit to Operate as a Contract Carrier by Motor Vehicle for Hire filed by Objay and Obkay Services LLP (Applicant) is amended as set forth in ¶ 8 above.

5. The intervention filed by MKBS LLC, doing business as Metro Taxi (Metro) is withdrawn.

6. The intervention filed by Colorado Springs Transportation LLC, doing business as Yellow Cab Company of Colorado Springs (Colorado Springs Transportation), and Colorado Cab Company LLC, doing business as Denver Yellow Cab and Boulder Yellow Cab (Colorado Cab) is withdrawn.

7. Metro, Colorado Springs Transportation, and Colorado Cab are dismissed as parties in this proceeding.

8. Applicant is granted a permit to operate as a contract carrier by motor vehicle for hire as follows:

Transportation of
passengers

between all points within the following area:

in the Counties of Adams, Arapahoe, Clear Creek, Denver, and Jefferson, State of Colorado.

RESTRICTIONS: This permit is restricted:

- (A) to the transportation of passengers who are recipients of Medicaid;
- (B) to providing Non-Medical Transportation (NMT) services for the Colorado Department of Health Care Policy and Financing, 1570 Grant Street, Denver, Colorado;
- (C) against providing transportation to or from hotels, motels, and airports;
and
- (D) to the operation of no more than two (2) vehicles at one time.

9. The hearing scheduled in this matter for December 8, 2014 at 9:15 a.m. is vacated.

10. Applicant shall operate in accordance with all applicable Colorado laws and Commission rules. All operations under the permit granted shall be strictly contract carrier operations.

11. Applicant shall not commence the operations under the permit until it has complied with the requirements of Colorado laws and Commission rules, including without limitation:

- (a) causing proof of insurance (Form E or self-insurance) or surety bond (Form G) coverage to be filed with the Commission;
- (b) paying to the Commission, the motor vehicle fee (\$5) for each vehicle to be operated under authority granted by the Commission, or in lieu thereof, paid the fee for such vehicle(s) pursuant to the Unified Carrier Registration Agreement;
- (c) having an effective tariff on file with the Commission. Applicant shall file an advice letter and tariff on not less than ten days' notice. The advice letter and tariff shall be filed as a new Advice Letter proceeding and shall comply with all applicable rules. In calculating the proposed effective date, the date received at the Commission is not included in the notice period and the entire notice period must expire prior to the effective date. (Additional tariff information can be found on the Commission's website at dora.colorado.gov/puc and by following the transportation common and contract carrier links to tariffs); and
- (d) paying the applicable issuance fee (\$5).

12. If Applicant does not cause proof of insurance or surety bond to be filed, pay the appropriate motor vehicle fees, file an advice letter and proposed tariff, and pay the issuance fee within 60 days of the effective date of this Decision, then the grant of the operations under the Permit shall be void. For good cause shown, the Commission may grant additional time for compliance if the request for additional time is filed within 60 days of the effective date of this Decision.

13. The Commission will notify Applicant in writing when the Commission's records demonstrate compliance with Ordering Paragraph 11.

14. This Recommended Decision shall be effective on the day it becomes the Decision of the Commission, if that is the case, and is entered as of the date above.

15. As provided by § 40-6-106, C.R.S., copies of this Recommended Decision shall be served upon the parties, who may file exceptions to it.

a) If no exceptions are filed within 20 days after service or within any extended period of time authorized, or unless the recommended decision is stayed by the Commission upon its own motion, the recommended decision shall become the decision of the Commission and subject to the provisions of § 40-6-114, C.R.S.

b) If a party seeks to amend, modify, annul, or reverse a basic finding of fact in its exceptions, that party must request and pay for a transcript to be filed, or the parties may stipulate to portions of the transcript according to the procedure stated in § 40-6-113, C.R.S. If no transcript or stipulation is filed, the Commission is bound by the facts set out by the administrative law judge; and the parties cannot challenge these facts. This will limit what the Commission can review if exceptions are filed.

16. If exceptions to this Recommended Decision are filed, they shall not exceed 30 pages in length, unless the Commission for good cause shown permits this limit to be exceeded.

(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