

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 25A-0138CP

IN THE MATTER OF THE APPLICATION OF DRIVERS COOPERATIVE - COLORADO, LCA FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE AS A COMMON CARRIER BY MOTOR VEHICLE FOR HIRE.

**RECOMMENDED DECISION
DISMISSING PROCEEDING WITHOUT PREJUDICE**

Issued Date: July 24, 2025

I. STATEMENT

1. On March 27, 2025, Drivers Cooperative-Colorado LCA (“Drivers Cooperative”) initiated the captioned proceeding by filing an application seeking a Certificate of Public Necessity and Convenience to Operate as a Common Carrier by Motor Vehicle for Hire (“Application”) with the Colorado Public Utilities Commission (“Commission”) through counsel.

2. On April 7, 2025, the Commission provided public notice of the application to extend the permit by publishing a summary of the same in its Notice of Applications Filed:

For authority to operate as a common carrier by motor vehicle for hire for the transportation of passengers as follows:

(1) Transportation of passengers in-call-and-demand shuttle service, call-and-demand charter service, and call-and-demand sightseeing service between all points in the Counties of Adams, Arapahoe, Broomfield, Denver, Douglas, Jefferson, Elbert, Park, Clear Creek, Gilpin County, El Paso, Montrose, Boulder, and Eagle, State of Colorado.

This application is restricted against:

- (a) transportation service between any points in the Town of Estes Park,
- (b) transportation service between any points in Larimer County,
- (c) transportation service between any points in Larimer County to Denver International Airport, and
- (d) transportation service from Denver International Airport to any points in Larimer County.

3. On April 15, 2025, Mountain Star Transportation LLC, doing business as Explorer Tours and/or Red Rocks Shuttle (“Explorer”) and Epic Charter LLC (“Epic”) filed its Intervention through Roman Lysenko. Mr. Lysenko is identified as the president and owner of Explorer in the filing. This filing attached Commission Authority No. 55952 held by Explorer and Commission Authority No. 56012 held by Epic.

4. On April 16, 2025, Aspire Tours LLC (“Aspire”), filed its Intervention through its owner Kathleen Troxler. This filing attached Commission Authority No. 55865 held by Aspire.

5. On April 18, 2025, CKIMY, LLC doing business as iLIMO (“iLIMO”) filed its Intervention through its president Yassine Chanane. This filing did not contain any Commission Authority held by iLIMO.

6. On May 7, 2025, Hey Rides, Ltd. (“Hey Rides”), filed its Intervention through its owner Erica Gilmore. This filing attached Commission Authority No. 55965 held by Hey Rides.

7. On May 14, 2025, the Commission deemed the application complete and referred it by minute entry to the undersigned Administrative Law Judge (“ALJ”) for disposition.

8. On June 6, 2025, the attorney of record for Drivers Cooperative, Mark Valentine, filed a Notice of Withdrawal of Counsel of Record due to a conflict of interest arising from the intervention of Aspire. No objection to the withdrawal was filed.

9. On June 20, 2025, iLIMO filed Commission Authority No. 55822 and Commission Authority No. 55931, both held by iLIMO.

10. On June 26, 2025, a prehearing conference was held. At the prehearing conference the intervention of iLIMO was granted, a procedural schedule was adopted and the Applicant was ordered to make a filing concerning representation.

11. On July 1, 2025, by Decision No. R25-0496-I, the rulings made in the prehearing conference were memorialized.

II. DISCUSSION

A. Filing Concerning Representation

12. Under Rule 1201(b) 4 CCR 723-1, a party in an adjudicatory proceeding before the Commission shall be represented by an attorney *unless* the party is an individual appearing for the sole purpose of representing her/his own interests **or** for purposes of representing the interests of a closely-held entity pursuant to § 13-1-127, C.R.S. The Commission has emphasized that this requirement is mandatory and has found that if a party does not meet the criteria of this rule a non-attorney may not represent a party in such a proceeding. *See, e.g.*, Decisions No. C05-1018, Proceeding No. 04A-524W issued August 30, 2005; No. C04-1119, Proceeding No. 04G-101CP issued September 28, 2004; and No. C04-0884, Proceeding No 04G-101CP issued August 2, 2004.

13. At the prehearing conference Drivers Cooperative was notified that if it wished to proceed in this matter without an attorney, it must establish that it is a closely-held entity; *i.e.*, that it has no more than three owners by July 11, 2025. *See*, Rule 1201(b)(II), 4 CCR 723-1 and § 13-1-127(1)(a), C.R.S. It must also demonstrate that it meets the requirements of § 13-1-127(2),

C.R.S. This portion of the statute provides that an officer¹ may represent a closely-held entity before an administrative agency if both of the following conditions are met: (a) the amount in controversy does not exceed \$15,000; and (b) the officer provides the administrative agency with evidence, satisfactory to the agency, of the authority of the officer to represent the closely-held entity.² In the alternative, in the event that Drivers Cooperative elected to retain an attorney, such attorney was required to enter an appearance in this proceeding on or before close of business on July 11, 2025.

14. These instructions were then memorialized in Decision No. R25-0496-I.

15. Driver's Cooperative has not requested additional time to make this filing.

16. Driver's Cooperative did not make the ordered filing by July 11, 2025. As of the date of this decision Driver's Cooperative has not made the ordered filing concerning representation.

B. Filing of Exhibits and Witness List

17. At the prehearing conference the Applicant was ordered to file a copy of its exhibits and a list of witnesses by July 18, 2025.

18. This order was later memorialized in Decision No. R25-0496-I.

19. Driver's Cooperative has not requested additional time to make this filing

20. Driver's Cooperative did not file a copy of its exhibits or witness list on July 18, 2025.

¹ Section 13-1-127(1)(i), C.R.S., defines "Officer" as "a person generally or specifically authorized by an entity to take any action contemplated by" § 13-1-127, C.R.S.

² As pertinent here, § 13-1-127(2.3), C.R.S., states that a person in whom management of a limited liability company is vested or reserved "shall be presumed to have the authority to appear on behalf of the closely held entity upon providing evidence of the person's holding the specified office or status[.]"

21. Driver's Cooperative has not made the ordered filing of exhibits or a witness list as of the date of this Decision.

C. Abandonment of Application

22. Driver's Cooperative's failure to make the required filing concerning representation and the ordered filing of exhibits and witness list for the evidentiary hearing indicate that Driver's Cooperative has abandoned the above Application.

23. Due to Driver's Cooperative apparent abandonment of the Application, ALJ shall *sua sponte* dismiss the proceeding without prejudice to save all parties time and expense.

24. The procedural schedule and evidentiary hearing shall also be vacated.

III. ORDER

A. The Commission Orders That:

1. The application for a Certificate of Public Necessity and Convenience to Operate as a Common Carrier by Motor Vehicle for Hire Drivers Cooperative-Colorado LCA filed on March 15, 2025, is dismissed *sua sponte* without prejudice.

2. The procedural schedule and the evidentiary hearing scheduled for August 19, 2025, shall be vacated.

3. Proceeding 25A-0138CP is now closed.

6. 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.

7. As provided by § 40-6-109, C.R.S., copies of this Recommended Decision shall be served upon the parties, who may file exceptions to it. If no exceptions are filed within 20 days after service or within any extended period of time authorized, or unless the 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.

8. If a party seeks to amend, modify, annul, or reverse basic findings 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.

9. 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. If exceptions to this 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)



ATTEST: A TRUE COPY

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

ROBERT I. GARVEY

Administrative Law Judge

Rebecca E. White,
Director