

Decision No. R24-0511-I

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 24A-0116CP

IN THE MATTER OF THE APPLICATION OF 3940 EXPRESS SERVICES LLC, FOR A
CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE AS A
COMMON CARRIER BY MOTOR VEHICLE FOR HIRE.

**INTERIM DECISION
ADOPTING PROCEDURAL SCHEDULE AND SETTING
HEARING**

Issued Date: July 17 , 2024

I. STATEMENT

1. On March 11, 2024, 3940 Express Services LLC (“Express Services”) initiated this proceeding by filing an application seeking a Certificate of Public Convenience and Necessity (“CPCN”) to Operate as a Common Carrier by Motor Vehicle for Hire (“Application”) with the Colorado Public Utilities Commission (“Commission”).

2. On March 18, 2024, the Commission provided public notice of the application for a Certificate of Public Convenience and Necessity 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 in-call-and-demand shuttle service

between all points in the Counties of Adams, Arapahoe, Boulder,
Bloomfield, Denver, Douglas, El Paso, Jefferson, Larimer County, State
of Colorado

3. On April 15, 2024, Mountain Star Transportation LLC, doing business as Explorer Tours (“Explorer”) filed its Intervention through non-attorney Roman Lysenko. Mr. Lysenko signed Explorer Tours’ Petition for Intervention and stated therein he is the owner and President of Explorer Tours. This filing attached Commission Authority No. 55952 held by Explorer.

4. On April 17, 2024, Estes Park Charters Corporation (“Estes Park”), filed its Intervention through its counsel Mark Valentine. This filing attached Commission Authority No. 54696 held by Estes Park¹.

5. On April 17, 2024, Denvers Airport Transport, LLC (“Denvers Airport”) filed its Intervention through its counsel Gabriella Stockmayer. This filing noted Commission Authority No. 55995 held by Denvers Airport.

6. On April 24, 2024, the Commission deemed the application complete and referred it by minute entry to the undersigned Administrative Law Judge (“ALJ”) for disposition.

7. On May 15, 2024, by Decision No. R24-0327-I, all interventions were granted and a prehearing conference was scheduled.

8. On May 28, 2024, a prehearing conference was held in the above captioned proceeding. The Applicant failed to appear at the scheduled time for the prehearing conference. The undersigned ALJ allowed an additional 15 minutes for the Applicant to appear. During the break, the undersigned ALJ discovered that the Applicant was not listed on the certificate of service for Decision No. R24-0327-I.

¹ The caption on the Notice of Intervention filed by Estes Park also includes Home James Transportation Services, and Fun Time Trolley, LLC. The body of the intervention does not mention these entities and a copy of their Commission Authority was not attached to the filing. Home James Transportation Services, and Fun Time Trolley, LLC are not parties to this proceeding.

9. The undersigned ALJ concluded that the Applicant may not have been served with Decision No. R24-0327-I.

10. On May 31, 2024, by Decision No. R24-0367-I, the prehearing conference was rescheduled for July 11, 2024.

II. PROCEDURAL SCHEDULE AND REMOTE HEARING

11. At the prehearing conference the parties agreed to the following procedural schedule:

- A. On or before August 2, 2024, Express Service is ordered to file and serve on all intervenors: (a) a list that identifies the witnesses Express Service intends to call at the hearing, the last known address and telephone number of each witness, and a summary of the anticipated testimony of each witness; and (b) copies of the exhibits Blue Shuttle will present at the hearing.
- B. On or before August 23, 2024, all intervenors ordered to file and serve on Express Services: (a) a list that identifies the witnesses the Intervenor intends to call at the hearing, the last known address and telephone number of each witness, and a summary of the anticipated testimony of each witness; and (b) copies of the exhibits the Intervenor will present at the hearing.

12. An evidentiary hearing shall be held on September 17 and 18 , 2024, commencing each day at 9:00 am.

13. 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 party or parties to the proceeding. Service must be accomplished pursuant to Rule 1205 of the Commission's Rules of Practice and Procedure. The Commission's Rules (including Rule 1205) are available on the Commission's website and in hard copy from the Commission.

14. All parties must establish through a certificate of service that they have served a filed document on all other parties in the proceeding. A certificate of service is a statement indicating how and when a document was served on the other party (*e.g.*, the filing was served

by placing the document in the United States mail, first class postage prepaid to an identified address on an identified date).

A. Unified Numbering System for Hearing Exhibits

15. Each party must (a) pre-mark all hearing exhibits with a hearing exhibit number within their assigned number block before uploading the exhibits to the party's designated box.com folder; (b) sequentially page-number each page of exhibits longer than two pages, with the first page number as page 1.

16. Attachment B outlines procedures and requirements for marking and formatting exhibits aimed at facilitating efficient and smooth electronic evidence presentations at the remote hearing. It is very important that the parties carefully review and follow all requirements in this Decision and Attachments A and B.

17. To efficiently organize the numbering and preparation of exhibits for the hearing, the parties shall use a unified numbering system for all hearing exhibits. Blocks of hearing exhibit numbers are assigned as follows:

- Express Services is assigned hearing exhibit numbers 100 to 199;
- Explorer is assigned hearing exhibit numbers 200 to 299;
- Estes Park is assigned hearing exhibit numbers 300 to 399; and
- Denver's Airport is assigned hearing exhibit numbers 400 to 499.

B. Additional Procedural Notices and Advisements

18. The parties are on notice that the ALJ will retain the discretion to change the method by which the hearing will be conducted.

19. Additional procedural requirements may be addressed in future Interim Decisions.

20. The parties are advised that this proceeding is governed by the Rules of Practice and Procedure found at 4 CCR 723-1. The ALJ expects the parties comply with these rules.

21. The rules are available on the Commission's website (<http://puc.colorado.gov/pucrules>), and in hard copy from the Commission.

22. The Parties are also on notice that failure to appear at the scheduled evidentiary hearing may result in decisions adverse to their interest.

23. The filing of an exhibit with the Commission does not, by itself, admit an exhibit into the evidentiary record of the hearing.

24. The parties are on notice that: (a) any witness may be prohibited from testifying, except in rebuttal, unless that witness is identified on the list of witnesses filed and served as required; (b) failure to provide an accurate description of the anticipated testimony of a witness may also result in an order prohibiting such witness from testifying; and (c) any exhibit may not be received in evidence, except in rebuttal, unless filed and served as required.

C. Informational Video Conference Practice Session

25. The ALJ will hold an informal practice video conference session if requested by any Party to give the Parties an additional opportunity to practice using Zoom.

26. The Parties may contact the Commission Legal Assistants by email at casey.federico@state.co.us or stephanie.kunkel@state.co.us to schedule an informal practice video conference session.

27. If the Parties request a practice video conference, they will receive information and a link to participate in the informal practice session by email.

D. Additional Advisements

28. The Parties are advised and are on notice that this proceeding is governed by the Rules of Practice and Procedure found at 4 CCR 723-1. The ALJ expects the Parties to be familiar with and to comply with these rules. The rules are available on the Commission's website (<https://puc.colorado.gov/pucrules>) and in hard copy from the Commission.

III. ORDER**A. It Is Ordered That:**

1. The Parties shall be held to the advisements in this Decision.
2. The procedural schedule as stated above is adopted.
3. An evidentiary hearing in this proceeding is scheduled as follows:

DATE: September 17 and 18, 2024

TIME: 9:00 a.m.

PLACE: Join by videoconference using Zoom

4. Participants in the hearing may not distribute the hearing link, access, or ID code to anyone not participating in the hearing. Participants may not appear in person at the Commission for the above-scheduled hearing. Instead, they must participate in the hearing from remote locations, consistent with the requirements of this Decision.

5. All participants must comply with the requirements in Attachment A and B to this Decision, which is incorporated into this Decision.

6. 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 "Rebecca E. White".

Rebecca E. White,
Director