

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO**

PROCEEDING NO. 20A-0245CP-EXTENSION

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IN THE MATTER OF THE APPLICATION OF PIKES PEAK CAB LLC DOING BUSINESS AS PIKES PEAK TRANSPORT, 2739 N. NEVADA, COLORADO SPRINGS, CO 80907, FOR PERMANENT AUTHORITY TO EXTEND OPERATIONS UNDER CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY NO. 55884.

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**RECOMMENDED DECISION OF  
ADMINISTRATIVE LAW JUDGE  
ROBERT I. GARVEY  
ACCEPTING AMENDMENT;  
DISMISSING INTERVENTIONS; GRANTING  
APPLICATION AMENDED UNDER MODIFIED  
PROCEDURE; AND CLOSING PROCEEDING**

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Mailed Date: July 30, 2020

**I. STATEMENT**

1. On June 5, 2020, Pikes Peak Cab LLC, doing business as Pikes Peak Transport (Pikes Peak or Applicant) initiated the captioned proceeding by filing an application seeking authority to extend operations under Certificate of Public Convenience and Necessity (CPCN) No. 55884 (Application) with the Colorado Public Utilities Commission (Commission).

2. On June 8, 2020, 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:

If the extension is granted, CPCN No. 55884 will read:

Transportation of

passengers in call-and-demand shuttle service

- (I) between all points in the County of El Paso, State of Colorado; and
- (II) between all points in the County of El Paso, State of Colorado, on the one hand, and all points in the State of Colorado, on the other hand.

3. On June 18, 2020, Pikes Peak filed a restrictive amendment against the use of vehicles with a manufacture's rating of eight or more passengers and to exclude Cripple Creek, Colorado.

4. On June 22, 2020, Fun Tyme Trolleys, LLC, doing business as Estes Park Trolleys (Fun Tyme) filed its Intervention and Entry of Appearance through its counsel, Glenn D. Malpiede. That filing did not attach a Commission Authority held by Fun Tyme.

5. On June 26, 2020, Pikes Peak filed a revised amendment to the Application. If approved, the authority would read:

Transportation of

passengers in call-and-demand shuttle service:

- (I) between all points in the County of El Paso, State of Colorado; and
- (II) between all points in the County of El Paso, State of Colorado, on the one hand, and all points in the State of Colorado, on the other hand.

#### RESTRICTIONS:

Item (II) is restricted:

- (a) to the use of vehicles with a seating capacity of 8 passengers or less;
- (b) against providing any transportation service to or from points in Cripple Creek, Colorado; and
- (c) against providing any transportation service that originates in Larimer County, State of Colorado.

6. On July 7, 2020, Ramblin' Express, Inc. (Ramblin' Express) filed its Intervention and Entry of Appearance through its counsel, Charles J. Kimball. That filing attached Commission Authority Nos. 45392, No. 47966, and Contract Carrier Permit No. B-10104 held by Ramblin' Express.

7. On July 7, 2020, Estes Valley Transport, Inc. (Estes Valley) filed its Intervention and Entry of Appearance through its counsel, Charles J. Kimball. That filing attached Commission Authority No. 54696 held by Estes Valley.

8. On July 8, 2020, Estes Valley and Ramblin' Express filed their Statement of Position. In their Statement of Position, both Estes Park and Ramblin' Express state that they will withdraw their interventions if the proposed amendment filed by Pikes Peak on June 26, 2020, is approved by the Commission.

9. On July 9, 2020, Fun Tyme filed its Statement of Position. In its Statement of Position, Fun Tyme states it shall withdraw its intervention if the proposed amendment filed by Pikes Peak on June 26, 2020, is approved by the Commission.

10. On July 15, 2020, the Commission deemed the Application complete and referred it to the undersigned Administrative Law Judge (ALJ) for disposition.

11. Under the amendment, the restrictively amended authority will read:

If the extension is granted, CPCN No. 55884 will read:

Transportation of

passengers in call-and-demand shuttle service:

- (I) between all points in the County of El Paso, State of Colorado; and,
- (II) between all points in the County of El Paso, State of Colorado, on the one hand, and all points in the State of Colorado, on the other hand.

RESTRICTIONS:

Item (II) is restricted:

- (a) to the use of vehicles with a seating capacity of 8 passengers or less;
- (b) against providing any transportation service to or from points in Cripple Creek, Colorado; and
- (c) against providing any transportation service that originates in Larimer County, State of Colorado.

12. To be acceptable, restrictions must be restrictive in nature, clear and understandable, and administratively enforceable. Both the authority and any restriction on that authority must be unambiguous and must be contained wholly within the permit. Both must be worded so that a person will know, from reading the 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 an authority must be found within the four corners of the permit, which is the touchstone by which one determines whether the operation of a contract carrier is within the scope of its Commission-granted authority. The proposed amendment to the Application meets these standards.

13. The ALJ finds and concludes that the proposed amendment is restrictive in nature, is clear and understandable, and is administratively enforceable.

14. The restriction to the authority sought by Applicant (*i.e.*, the amendment to the Application) will be accepted.

15. Accepting the amendment to the Application has two impacts. First, the authority sought will be amended to conform to the restrictive amendment. Second, the interventions of the Intervenors will be withdrawn.

16. Withdrawal of the intervention and dismissal of the Intervenors leaves the Application, as amended, uncontested. Pursuant to § 40-6-109(5), C.R.S., and Rule 1403 of the Rules of Practice and Procedure, 4 *Code of Colorado Regulations* (CCR) 723-1, the uncontested amended Application may be processed under the modified procedure, without a formal hearing.

## **II. FINDINGS AND CONCLUSIONS**

17. Applicant is a limited liability company in good standing.

18. Applicant requests authority to extend operations as a common carrier.

19. The verified 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 verified Application and its supporting documentation establish that Applicant has sufficient equipment with which to render the proposed service and is financially fit to conduct operations under the authority requested. Finally, review of the verified Application indicates a need for the proposed service. Therefore, because the Applicant is fit, financially and otherwise, to perform the proposed service and because the other prerequisites have been met, the authority should be granted.

20. In accordance with § 40-6-109, C.R.S., the ALJ recommends that the Commission enter the following order.

### **III. ORDER**

#### **A. The Commission Orders That:**

1. The verified Application to Extend Operations under Certificate of Public Convenience and Necessity No. 55884 as a Common Carrier of Passengers by Motor Vehicle is amended consistent with the discussion above.

2. The interventions filed by Fun Tyme Trolleys, LLC, doing business as Estes Park Trolleys, Ramblin' Express, Inc., and Estes Valley Transport, Inc. are withdrawn and they are dismissed from the proceeding.

3. Pikes Peak Cab LLC, doing business as Pikes Peak Transport (Pikes Peak), is granted an extension of Certificate of Public Convenience and Necessity No. 55884 to Operate as a Common Carrier of Passengers by Motor Vehicle as follows:

Transportation of  
passengers in call-and-demand shuttle service:

- (I) between all points in the County of El Paso, State of Colorado; and
- (III) between all points in the County of El Paso, State of Colorado, on the one hand, and all points in the State of Colorado, on the other hand.

RESTRICTIONS:

Item (II) is restricted:

- (a) to the use of vehicles with a seating capacity of 8 passengers or less;
- (b) against providing any transportation service to or from points in Cripple Creek, Colorado; and
- (c) against providing any transportation service that originates in Larimer County, State of Colorado.

4. Applicant Pikes Peak shall operate in accordance with all applicable Colorado laws and Commission rules.

5. Applicant Pikes Peak shall not commence operation under the extended authority until it has complied with the requirements of Colorado law 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 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, Pikes Peak 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](http://dora.colorado.gov/puc) and by following the transportation common and contract carrier links to tariffs); and

(d) paying the applicable issuance fee.

6. If Pikes Peak, 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 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.

7. The Commission will notify Pikes Peak in writing when the Commission's records demonstrate compliance with paragraph 5.

8. Proceeding No. 20A-0245CP-Extension is closed.

9. 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.

10. 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.

11. 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.

12. 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.

13. 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)



ATTEST: A TRUE COPY

Doug Dean,  
Director

THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF COLORADO

ROBERT I. GARVEY

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Administrative Law Judge