

Decision No. C23-0229

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 23A-0098CP-SUSP

IN THE MATTER OF THE APPLICATION OF ACE EXPRESS COACHES, LLC FOR AN ORDER OF THE COMMISSION AUTHORIZING A SUSPENSION OF CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY NO. 47967.

**COMMISSION DECISION GRANTING IN PART
SUSPENSION OF OPERATIONS AND WAIVING RULE**

Mailed Date: April 4, 2023
Adopted Date: March 22, 2023

I. BY THE COMMISSION

A. Statement, Findings, and Conclusions

1. On March 1, 2023, Ace Express Coaches, LLC (Ace Express Coaches) filed an application seeking approval to suspend operations under Certificate of Public Convenience and Necessity (CPCN) PUC No. 47967, from January 10, 2023, through January 9, 2024.

2. The Commission noticed this application to all interested persons, firms, and corporations pursuant to § 40-6-108(2), C.R.S., on March 6, 2023, for a period of ten days. The notice period expired on March 16, 2023.

3. No petition to intervene or otherwise participate in this proceeding has been filed. This proceeding is uncontested. Under § 40-6-109(5), C.R.S., this matter may be determined without a hearing.

4. Rule 6205(b) of the Rules Regulating Transportation by Motor Vehicle, 4 *Code of Colorado Regulations* (CCR) 723-6, states that:

A Fully Regulated Intrastate Carrier may not request, and the Commission shall not grant a voluntary suspension persisting for longer than:

(I) 12 consecutive months;

[or]

(II) 12 months in any 24-month period.

Rule 6205(c), 4 CCR 723-6, further states that:

In addition to all other requirements, any request for waiver or variance from this time period limitation must demonstrate that the suspension is in the public interest and that alternative service will be available during the period of suspension.

5. Pursuant to Rule 1501(c) of the Commission's Rules of Practice and Procedure, 4 CCR 723-1, we administratively notice that Ace Express Coaches was previously granted a suspension of operations under CPCN PUC No. 47967 from from January 10, 2022, through January 9, 2023, by Decision No. C22-0014, in Proceeding No. 21A-0620CP-SUSP on January 6, 2022. If the suspension requested in this application is granted, CPCN PUC No. 47967 will be suspended for a period of 24 consecutive months. Therefore, to grant the suspension requested in this application, the Commission will have to waive on its own motion Rule 6205(b), 4 CCR 723-6.

6. Pursuant to Rule 1003(a) of the Commission's Rules of Practice and Procedure, 4 CCR 723-1, the Commission may "for good cause shown, grant waivers or variances from tariffs, Commission rules, and substantive requirements contained in Commission decisions. In making its determination the Commission may take into account, but is not limited to, considerations of hardship, equity, or more effective implementation of overall policy on an individual basis."

7. In support of this suspension application, the manager of Ace Express Coaches, states:

We are requesting to suspend our services and operations for a second year to this portion of our authority due to impacts the COVID-19 pandemic has had on our service. Supply chain issues and driver shortages continue to challenge the business. Ace is continuing to evaluate this portion of our business and believes a continued suspension of services is necessary while we consider our options.

8. The Commission is aware that the Covid pandemic did significantly decrease the demand for public passenger transportation during 2020 and 2021. The Commission is also aware that passenger transportation companies have found it difficult to locate and hire drivers. However, Ace Express Coaches was previously granted a suspension of operations under CPCN PUC No. 47967 from January 10, 2022, through January 9, 2023. Rule 6205(b) states that a suspension of longer than 12 consecutive months shall not be granted unless Ace Express coaches can demonstrate that the suspension is in the public interest and that alternative service will be available during the period of suspension.

9. In consideration of the information submitted by Ace Express Coaches with this application, the Commission finds that the suspension of CPCN PUC No. 47697 is in the public interest and will be granted in part for a period of 180 days. During the suspension, Ace Express Coaches is advised it should evaluate whether any sections of CPCN PUC No. 47967 should be abandoned.

II. ORDER

A. The Commission Orders That:

1. This application was deemed complete on March 22, 2023, within the meaning of § 40-6-109.5, C.R.S.
2. On its own motion, the Commission waives Rule 6205(b), 4 *Code of Colorado Regulations* (CCR) 723-6, consistent with the discussion above.
3. The application filed by Ace Express Coaches, LLC (Ace Express Coaches) on March 1, 2023, for approval to suspend operations under Certificate of Public Convenience and Necessity (CPCN) PUC No. 47696 is granted in part from January 10, 2023 through July 9, 2023.
4. On July 10, 2023, CPCN PUC No. 47696 shall be administratively reactivated.
5. Prior to commencing operations, Ace Express Coaches shall: (a) cause proof of insurance or surety bond coverage to be filed with the Commission pursuant to Rule 6008, 4 *Code of Colorado Regulations* 723-6; (b) pay to the Commission the applicable vehicle identification fee for each vehicle to be operated under authority granted by the Commission; and, (c) ensure that an effective tariff is on file with the Commission, in compliance with applicable Commission rules.
6. The 20-day time period provided by § 40-6-114(1), C.R.S., to file an application for rehearing, reargument, or reconsideration shall begin on the first day after the Commission mails or serves this Decision.

7. This Decision is effective on its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
March 22, 2023.**

(S E A L)



ATTEST: A TRUE COPY

G. Harris Adams,
Interim Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

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MEGAN M. GILMAN

TOM PLANT

Commissioners