

Decision No. R23-0183

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 22F-0337EC

ESTES PARK CHARTERS CORP. DOING BUSINESS AS ESTES PARK SHUTTLE AND
FUN TYME TROLLEYS, LLC, DOING BUSINESS AS ESTES PARK TROLLEYS,

COMPLAINANT,

V.

GREEN JEEP TOURS LLC,

RESPONDENT.

**RECOMMENDED DECISION OF
ADMINISTRATIVE LAW JUDGE
CONOR F. FARLEY
DISMISSING COMPLAINT, VACATING HEARING, AND
CLOSING PROCEEDING**

Mailed Date: March 15, 2023

I. STATEMENT

A. Relevant Background

1. On July 26, 2022, Estes Park Charters Corp. doing business as Estes Park Shuttle and Fun Tyme Trolleys, LLC, doing business as Estes Park Trolleys (Estes Park Shuttle and Trolleys) filed a Formal Complaint (Complaint) against Green Jeep Tours, LLC (Green Jeep).

2. On August 1, 2022, the Commission scheduled the Complaint for an evidentiary hearing to be held on October 4, 2022, starting at 9:00 a.m. On the same date, the Commission served the Complaint on Green Jeep, and filed and served an Order Setting Hearing and Notice of Hearing, an Order to Answer or Satisfy, and other documents on the parties.

3. On August 10, 2022, the Commission referred this proceeding to an Administrative Law Judge (ALJ). The proceeding was subsequently assigned to the undersigned ALJ.

4. On August 22, 2022, Green Jeep filed a Motion to Dismiss.

5. On September 2, 2022, Estes Park Shuttle and Trolleys filed a Response to the Motion to Dismiss.

6. On September 16, 2022, the ALJ issued Decision No. R22-0550-I that denied the Motion to Dismiss, scheduled a remote prehearing conference for September 28, 2022, ordered the parties to confer regarding a schedule for the proceeding, and ordered Estes Park Shuttles and Trolleys to file a report of the conferral by 12:00 p.m. on September 28, 2022.

7. The remote prehearing conference took place on September 28, 2022.

8. On September 30, 2022, Green Jeep filed its Answer to the Formal Complaint and Counterclaims.

9. On October 5, 2022, the ALJ issued Decision No. R22-0597-I that vacated and reset the hearing to January 26, 2023, at 9:00 a.m.

10. On November 30, 2022, Green Jeep filed a Motion for Summary Judgment on its counterclaims.

11. On December 14, 2022, Estes Park Shuttle and Trolleys filed an Answer to Counterclaims and Response to the Motion for Summary Judgment.

12. On January 13, 2023, Estes Park Shuttle and Trolleys filed an Unopposed Motion to Vacate Procedural Schedule and Reschedule Hearing (Unopposed Motion). In the Unopposed

Motion, Estes Park Shuttle and Trolleys stated that the parties reached a settlement in this proceeding and in the parallel proceedings 22A-0215CP and 22A-0310CP, which were consolidated (Consolidated Proceeding). The parties filed a Motion to Restrictively Amend the Application and to Withdraw Interventions in the Consolidated Proceeding, which would have the effectively approved the parties' settlement agreement. The Unopposed Motion stated that, if the Commission approved the settlement agreement in the Consolidated Proceeding, the dispute in this proceeding would be settled as well. The Unopposed Motion thus requested the ALJ to vacate the hearing in this proceeding scheduled for January 26, 2023, and reset it to either April 27 or 28, 2023.

13. On January 23, 2023, the ALJ issued Decision No. R23-0049-I that granted the Unopposed Motion, denied-as-moot the Motion for Summary Judgment, and vacated the hearing scheduled for January 26, 2023, and reset it to April 27, 2023.

14. On January 20, 2023, Decision No. R23-0051 issued in the Consolidated Proceeding granting the Motion to Restrictively Amend the Application and to Withdraw Interventions. However, Decision No. R23-0051 also modified the authority proposed by the parties to make it unambiguous and administratively enforceable.

15. On February 3, 2023, the ALJ sent an email to the parties in this proceeding requesting a status report as to whether the Complaint in this proceeding could be dismissed in light of the issuance of Decision No. R23-0051.

16. On March 9, 2023, counsel for Estes Park Shuttle and Trolleys responded stating that he had conferred with counsel for Green Jeep, and they agreed that the Complaint and Counterclaims should be dismissed, and this proceeding should be closed.

B. Analysis

17. In light of the March 9, 2023, communication described above, the Complaint and Counterclaims will be dismissed, and this proceeding will be closed.

II. RECOMMENDED DECISION

18. In accordance with § 40-6-109, C.R.S., it is recommended that the Commission enter the following Order.

III. ORDER**A. The Commission Orders That:**

1. For the reasons stated above, the Complaint filed by Estes Park Charters Corp. doing business as Estes Park Shuttle and Fun Tyme Trolleys, LLC, doing business as Estes Park Trolleys, and the Counterclaims filed by Green Jeep Tours, LLC, are dismissed.

2. The hearing scheduled for April 27, 2023, is vacated.

3. Proceeding No. 22AL-0348G is closed.

4. 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.

a) 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.

b) 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. 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.

5. 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

A handwritten signature in cursive script, appearing to read "G. Harris Adams".

G. Harris Adams,
Interim Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

CONOR F. FARLEY

Administrative Law Judge