

Decision No. C24-0243

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 23A-0554CP

IN THE MATTER OF THE APPLICATION OF SOS SHUTTLE FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE AS A COMMON CARRIER BY MOTOR VEHICLE FOR HIRE.

COMMISSION DECISION DENYING EXCEPTIONS

Mailed Date: April 18, 2024

Adopted Date: April 10, 2024

I. BY THE COMMISSION

A. Statement

1. Through this Decision, the Commission denies the exceptions filed on March 5, 2024, by SOS Shuttle (Applicant or SOS Shuttle).¹ While the filings were timely made during the period for exceptions as permitted under § 40-6-114, C.R.S., the Applicant attaches a revised Application, rather than any contesting information regarding findings made by Recommended Decision No. R24-0134, issued March 4, 2024 (Recommended Decision), which dismissed, without prejudice, the Application to Operate as a Common Carrier of Passengers for Motor Vehicle for Hire filed November 6, 2023, by SOS Shuttle (Application).

¹ As noted by Decision No. R24-0134, issued March 4, 2024, the Application was filed by Michael A Johnson, with the trade name of “SOS Shuttle Service.” And while other filings, including the exception pleadings identify the filer as “SOS Shuttle Limited,” the Certificate of Good Standing submitted with the Application on November 16, 2023, identifies the business name as “SOS Shuttle.”

The filings submitted by Applicant on March 5, 2024, which requested approval for an updated proposed authority, were improperly provided as “exceptions,” and are therefore denied within the context of this proceeding and as discussed herein.

2. Consistent with the Recommended Decision that dismissed the initial Application without prejudice, Applicant may file a new or amended application for consideration through a separate proceeding.

B. Background

3. On November 6, 2023, SOS Shuttle filed its Application initiating this proceeding, which was resubmitted with additional information on November 16, 2023.

The Application seeks:

...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 Arapahoe, Denver, Douglas, Eagle, El Paso, Grand, Pueblo, and Summit, State of Colorado.

4. The proceeding was noticed and ultimately referred for resolution to an ALJ, with timely interventions from both Mountain Star Transportation LLC, doing business as Explorer Tours (Explorer Tours), and Home James Transportation Services, LTD (Home James).

5. Through the course of this proceeding, SOS Shuttle was directed to file a list of witnesses by January 24, 2024. Without a filing made by that date, through the Recommended Decision, on March 4, 2024, the ALJ granted intervenor, Explorer Tours, motion to dismiss the proceeding without prejudice, arguing that SOS Shuttle’s failure to file the witness list timely prejudiced parties and dismissal was therefore appropriate.²

² See Recommended Decision, at ¶¶ 10-14.

6. On March 5, 2024, SOS Shuttle provided “exceptions” that attached an “Updated Application.” SOS Shuttle claims that its new request, upon conferral with parties in this proceeding, is more limited to avoid overlap with intervenor authorities. The updated filing is substantially different from the initial Application, and arguably includes expansion of the proposed authority to include authority within a 200-mile radius of Colorado Springs Airport and Denver International Airport, among other locations.

C. Discussion

7. The filing made on March 5, 2024, by SOS Shuttle does not contest findings of the ALJ, which concluded that dismissal, without prejudice, of the initial Application is appropriate. The revised authority request is substantively different from the initial Application filed here. Under Commission processes, this application seeks new and different authority than the Application considered in this proceeding. Such a request is appropriately filed as a new application and should not be considered as “exceptions” to the Recommended Decision.

8. The filings made March 5, 2024, are denied for purposes of consideration in this proceeding. We uphold the Recommended Decision that dismissed the initial Application, without prejudice. Applicant may re-file or revise its requested authority and file its request through a separate proceeding, such that it can be noticed and processed appropriately with the scope of authority requested.³

³ Re-filing or revising an updated application through further filings in this proceeding is inappropriate, as discussed. Applicant should file a new, revised application to initiate a separate proceeding should it decide to move forward with pursuing a revised service area and authority request.

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

1. Exceptions filed March 5, 2024, by SOS Shuttle are denied, consistent with the discussion above.
2. The Application filed November 6, 2023, as amended, is dismissed, without prejudice, consistent with Decision No. R24-0134, issued March 4, 2024.
3. The 20-day period provided for in § 40-6-114, C.R.S., within which to file applications for rehearing, reargument, or reconsideration begins on the first day following the effective date of this Decision.
4. This Decision is effective upon its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
April 10, 2024.**

(S E A L)



ATTEST: A TRUE COPY

Rebecca E. White,
DirectorTHE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

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Commissioners