

Decision No. R24-0505

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 24A-0161CP-EXT

IN THE MATTER OF THE APPLICATION OF TAVA CAB LLC DOING BUSINESS AS TAVA CAB FOR AUTHORITY TO EXTEND OPERATIONS UNDER CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY NO. 55994.

**RECOMMENDED DECISION
GRANTING CONTINGENT WITHDRAWAL OF
INTERVENTION, AND
GRANTING APPLICATION AS AMENDED**

Mailed Date: July 12, 2024

I. STATEMENT, SUMMARY AND PROCEDURAL HISTORY

A. Summary

1. This Decision grants the contingent withdrawal of the Intervention and grants the Extension Application (“Extension Application”) as amended.

B. Procedural History

2. On April 1, 2024, Tava Cab LLC, doing business as Tava Cab (“Tava Cab” or “Applicant”) initiated this matter by filing the above-captioned Extension Application. The Extension Application seeks to extend operations under Certificate of Public Convenience and Necessity (CPCN) No. 55994, which was issued to Tava Cab on February 15, 2024, pursuant to Decision No. R23-0781, issued November 27, 2023, in Proceeding No. 23A-0456CP. Pikes Peak Cab LLC, doing business as Pikes Peak Transport (“Pikes Peak” or “Intervenor”), filed an Intervention on September 29, 2023, in Proceeding No. 23A-0456CP. The parties eventually reached a settlement agreement in Proceeding No. 23A-0456CP, which was approved by Decision

No. R23-0781, restricting Tava Cab against providing any taxi service that originates in El Paso County.

3. Under CPCN No. 55994, Tava Cab is authorized to provide the following service: Transportation of passengers in call-and-demand taxi service between all points in Teller County, and between said points on the one hand, and all points in the Counties of Denver, Douglas, El Paso, Fremont, Park, and Pueblo, on the other hand.

Restriction: This certificate is restricted against providing any taxi service that originates in El Paso County.

4. Tava Cab filed this Extension Application seeking to expand its service area to include call-and-demand taxi service from points located within one mile of U.S. Highway 24 from its intersection with the Teller County boundary to its intersection with Severy Avenue in Cascade, Colorado.¹ Essentially, Tava Cab seeks to modify the current restriction on its CPCN against service originating in El Paso County.

5. On April 8, 2024, the Public Utilities Commission (“PUC” or “Commission”) provided public notice of the Extension Application, per § 40-6-108(2), C.R.S.² As noticed, the Extension Application seeks to modify the above Restriction against providing service originating in El Paso County to read as follows:

Except for service from points located within one mile of U.S. Highway 24 from its intersection with the Teller County boundary to its intersection with Severy Avenue in Cascade, Colorado, this certificate is restricted against providing any taxi service that originates in El Paso County.³

6. On May 7, 2024, Pikes Peak filed an Intervention and a copy of its Letter of Authority. Pikes Peak “provides call-[and]-demand shuttle services in El Paso County and the Colorado Springs Airport” under CPCN No. 55886.⁴ In its Intervention, Pikes Peak argues that:

¹ Extension Application at 3.

² See Notice of Applications and Petitions filed April 8, 2024.

³ *Id.*

⁴ Intervention of Pikes Peak Cab LLC, doing business as Pikes Peak Transport, ¶ 3, filed May 7, 2024.

(a) Tava Cab’s proposed modification to the restriction to the latter’s CPCN would “overlap” with Pikes Peak’s authorized service area; (b) Pikes Peak is “willing and able to provide the services authorized” by its CPCN; and (c) “Pikes Peak . . . has sufficient capacity to meet the needs of the traveling public.”⁵

7. On May 15, 2024, the Commission deemed the Extension Application complete by minute entry and referred the matter to an Administrative Law Judge (ALJ) for disposition. The matter was subsequently assigned to the undersigned ALJ.

8. By Decision No. R24-0366-I, issued May 30, 2024, a prehearing conference was scheduled for June 11, 2024, at 11:00 a.m.

9. Decision No. R24-0366-I granted Applicant’s request to be represented by its non-attorney owner/operator/designated agent, Melissa Brocato. The Decision also ordered Intervenor to provide information supporting its request to be represented by one of its non-attorney owners. Intervenor filed its statement in support of its request to be represented by a non-attorney, its Owner/Member and Operations Manager, Marcos Griego, on June 7, 2024. Intervenor’s request to be represented by a non-attorney was granted June 25, 2024, by Decision No. R24-0445-I.

10. The prehearing conference was held as scheduled on June 11, 2024. Ms. Brocato, Owner of Tava Cab, appeared on Applicant’s behalf. Mr. Griego appeared on behalf of Pikes Peak.

11. At the prehearing conference, the parties advised the undersigned ALJ that they had reached a settlement agreement, and that Pikes Peak would withdraw its Intervention. The parties explained that under the terms of the agreement, Tava Cab would be permitted to extend some service into El Paso County, but only to transport passengers from two specific food and drink establishments in El Paso County back to Teller County.

⁵ *Id.* at ¶ 4(e), (f), and (h).

12. At the parties' request, the ALJ therefore did not schedule an evidentiary hearing in this Proceeding.

13. On June 10, 2024, Tava Cab filed a letter with the PUC requesting that the authority sought in its April 1, 2024 Extension Application be amended. Specifically, Tava Cab asked that the Extension Application be restricted as follows:

This certificate is restricted against providing any taxi service that originates in El Paso County except for The Blue Moose Tavern[,] 10530 Ute Pass Avenue, Green Mountain Falls[, CO,] 80819 and The Mad Hatter Saloon at 8655 US-24, Cascade[, CO,] 80809[,] providing that the passengers at those two addresses are returning to Teller County.⁶

14. Subsequently, on June 12, 2024, Pikes Peak filed a letter with the Commission notifying the PUC that the parties had reached a settlement, reiterating and clarifying the scope of the agreed-upon restriction, and advising that Pikes Peak "agrees to withdraw" its Intervention "[i]f the Commission accepts and approves the amendment agreed upon [by] Pikes Peak Cab, LLC dba Pikes Peak Transport and by Tava Cab, LLC."⁷

15. As discussed more fully below, the ALJ will grant the restricted amendment and the contingent withdrawal of the Intervention.

16. The Extension Application as amended by Tava Cab's submitted restriction and revision is now uncontested.

17. In accordance with § 40-6-109, C.R.S., the undersigned ALJ now transmits to the Commission the record in this proceeding along with a written recommended decision.

⁶ Agreement Letter filed by Tava Cab on June 10, 2024.

⁷ Withdrawal Letter filed by Pikes Peak on June 12, 2024.

II. FINDINGS AND CONCLUSIONS

18. Since the Extension Application as amended is now unopposed, the matter will be considered and processed pursuant to the Commission's modified procedure, § 40-6-109(5), C.R.S., and Rule 1403 of the Commission's Rules of Practice and Procedure, 4 *Code of Colorado Regulations* (CCR) 723-1.

19. A proposed restricted amendment to an application for authority to operate as a contract carrier or common carrier by motor vehicle for hire must be restrictive in nature, clear and understandable, and administratively enforceable. The proposed restriction and authority must be unambiguous and must be contained entirely within the authority granted.

20. As amended and restricted, Tava Cab seeks an authority to operate as a common carrier by motor vehicle for hire as follows:

Transportation of passengers in call-and-demand taxi service between all points in Teller County, and between said points on the one hand, and all points in the Counties of Denver, Douglas, El Paso, Fremont, Park, and Pueblo, on the other hand.

Restriction: This certificate is restricted against providing any taxi service that originates in El Paso County except for service that originates at The Blue Moose Tavern, 10530 Ute Pass Avenue, Green Mountain Falls, CO, 80819, and/or The Mad Hatter Saloon, 8655 US Highway 24, Cascade, CO, 80809, providing that passengers picked up at either of those two addresses are returning to Teller County.

21. Intervenor's June 12, 2024 letter to the Commission advising that Pikes Peak will withdraw its Intervention indicates that Intervenor has agreed Tava Cab should seek the Commission's approval of the restricted authority as set out in Applicant's restriction. By incorporating the restriction as agreed to by the parties into its withdrawal letter, Intervenor has made clear that it agrees to the above proposed authority, with the incorporated restrictions, and that the authority as amended is acceptable to it.

22. The restrictive amendment filed by Tava Cab on June 10, 2024, is clear, unambiguous, and administratively enforceable. The restrictive amendment achieves the purposes sought by Tava Cab and Pikes Peak by protecting Intervenor's existing authority while allowing Tava Cab to provide the substance of the service it seeks to offer. As a result, the restrictive amendment which restricts Tava Cab's proposed authority to operate as a common carrier by motor vehicle for hire will be accepted.

23. The ALJ will grant Pikes Peak's contingent withdrawal of its Intervention. The Intervention filed by Pikes Peak will be deemed withdrawn.

24. In completing and submitting the Extension Application, Tava Cab represented that it is familiar with the Rules Regulating Transportation by Motor Vehicle, 4 CCR 723-6, and agreed to comply with those Rules to the extent applicable to it.

25. Additionally, the information provided by Tava Cab, as well as information available to the Commission in conjunction with Tava Cab's CPCN No. 55994, establishes that it possesses sufficient equipment to provide the proposed service and is financially viable to conduct operations under the authority requested. The Extension Application and the supporting information attached demonstrate that a need exists for the proposed service.

26. It is found that Applicant Tava Cab is fit to provide the proposed transportation service as restrictively amended and the Extension Application with the proposed restrictive amendments is reasonable, in the public interest, and should be granted.

27. Tava Cab will be granted, subject to conditions, an extension of its authority under CPCN No. 55994 to operate as a common carrier of passengers by motor vehicle for hire as set forth in the Appendix attached to this Decision, conditioned upon Applicant's full compliance with the requirements contained in this Decision.

28. If Tava Cab fails to comply with the prerequisites required by Ordering Paragraph No. 5 within 60 days of the effective date of the Decision, the requested extension of authority under CPCN PUC No. 55994 will be deemed denied and Applicant will not be granted the requested permanent authority; the extended CPCN shall not be issued; and Applicant shall not be permitted to operate under the requested authority. No further action of the Commission is required.

29. For good cause shown, the Commission may grant additional time for compliance with Ordering Paragraph No. 5 if the request for additional time is filed within 60 days of the effective date of this Decision.

30. The Commission will notify Applicant in writing when the Commission's records demonstrate Applicant has fully complied with the requirements of Ordering Paragraph No. 5. Applicant shall not begin operations without the receipt of written notification of compliance from the Commission.

31. Pursuant to § 40-6-109, C.R.S., it is recommended that the Commission enter the following order.

III. ORDER

A. It Is Ordered That:

1. The Agreement Letter filed by Applicant Tava Cab LLC, doing business as Tava Cab ("Tava Cab" or "Applicant") on June 10, 2024, and the Letter of Conditional Withdrawal of Intervention filed by Intervenor Pikes Peak Cab LLC, doing business as Pikes Peak Transport ("Pikes Peak" or "Intervenor") on June 12, 2024, are acknowledged and granted.

2. The Application for Permanent Authority to Extend Operations under Certificate of Public Convenience and Necessity (CPCN) No. 55994, filed by Tava Cab on April 1, 2024, and

the amended restrictions to the Extension Application set out in the Agreement Letter and the Letter of Conditional Withdrawal of Intervention, filed on June 10 and June 12, 2024, respectively, are granted consistent with the discussion above.

3. The contingent withdrawal of Pikes Peak's Intervention is likewise granted. The Intervention filed by Pikes Peak is deemed withdrawn.

4. The issuance of an extension of authority under Certificate of Public Convenience and Necessity (CPCN) PUC No. 55994 as set forth in Appendix A attached to this Decision is granted to Tava Cab LLC, doing business as Tava Cab (Applicant), subject to Applicant's full compliance with the requirements contained in Ordering Paragraph No. 5.

5. Applicant shall not be granted the extension of authority under CPCN PUC No. 55980 and shall not commence the extended operations until it has fully complied with the following conditions:

- a. cause proof of insurance (Form E or self-insurance) or surety bond (Form G) coverage to be filed with the Commission;
- b. pay to the Commission, the motor vehicle fee (\$50.00) 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. file with the Commission and have an effective, publicly available tariff (and time schedule if applicable), which includes the extended authority. The tariff should comply with Rule 6208 of the Rules Regulating Transportation by Motor Vehicle, 4 CCR 723-6. The tariff shall be filed in a new Advice Letter/Tariff proceeding on not less than ten days' notice prior to a proposed effective date. 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 proposed effective date;
- d. register an authorized representative as a File Administrator on behalf of Applicant in the Commission's electronic filing system (E-Filings) and agree that Applicant shall receive notifications

electronically through E-Filings. Information can be found at: www.dora.state.co.us/pls/efi/EFI.homepage; and

- e. pay the applicable fee (\$5.00) for the issuance of the extended authority.

6. The extension of authority under CPCN PUC No. 55994 shall not be issued and Applicant shall not operate under the extended authority unless Applicant complies with all of the conditions in Ordering Paragraph No. 5.

7. If Applicant does not comply with each requirement in Ordering Paragraph No. 5, within 60 days of the effective date of this Decision, the extension of authority under CPCN PUC No. 55994 is denied without further action of the Commission. 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.

8. Applicant shall continue to operate in accordance with all applicable statutes, orders, and rules of the Commission. The Commission may issue an order to cease and desist or to suspend, revoke, alter, or amend any certificate or permit for violation of, or refusal to observe any statute, order, or rule of the Commission, consistent with § 40-10.1-112 (1), C.R.S.

9. Proceeding No. 24A-0161CP-EXT is closed.

10. 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.

11. 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.

12. 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)



THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

ALENKA HAN

Administrative Law Judge

ATTEST: A TRUE COPY

Rebecca E. White,
Director