

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 24A-0127CP

IN THE MATTER OF THE APPLICATION OF BLUE21 LLC, DOING BUSINESS AS BLUE SHUTTLE FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE AS A COMMON CARRIER BY MOTOR VEHICLE FOR HIRE.

**RECOMMENDED DECISION ACCEPTING AMENDMENT;
DISMISSING INTERVENTION; GRANTING
APPLICATION AMENDED UNDER MODIFIED
PROCEDURE; AND CLOSING PROCEEDING**

Issued Date: September 25, 2024

I. STATEMENT

1. On March 18, 2024, Blue21 LLC, doing business as Blue Shuttle (“Blue Shuttle”) initiated the captioned proceeding by filing an application seeking a Certificate of Public Convenience and Necessity (“CPCN”) to Operate as a Common Carrier by Motor Vehicle for Hire (“Application”) with the Colorado Public Utilities Commission (“Commission”).

2. On March 18, 2024, the Commission provided public notice of the application by publishing a summary of the same in its Notice of Applications Filed:

For 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 Adams, Arapahoe, Boulder, Denver, Douglas Jefferson, and Weld, State of Colorado.

3. On April 8, 2024, Blue Shuttle filed an amendment to its Application which restricts the proposed service against providing transportation service to and from Red Rocks

Park and Amphitheater and to and from Lookout Mountain. With the amendment the proposed service is amended to the following:

For 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 Adams, Arapahoe, Boulder, Denver, Douglas Jefferson, and Weld, State of Colorado.

RESTRICTIONS

Restricted against providing transportation to and from Red Rocks Park and Amphitheater and to and from Lookout Mountain

4. On April 15, 2024, Mountain Star Transportation LLC, doing business as Explorer Tours (“Explorer”) filed its Intervention through Roman Lysenko. Mr. Lysenko is identified as the president and owner of Explorer in the filing. This filing attached Commission Authority No. 55952 held by Explorer.

5. On April 15, 2024, Explorer filed its Notice of Conditional Withdrawal (“Notice”). In the Notice, Explorer states that if the restrictive amendment filed by Blue Shuttle is approved, Explorer shall withdraw its intervention.

6. On April 17, 2024, Denvers Airport Transport, LLC (“Denvers Airport”) filed its Intervention through its counsel Gabriella Stockmayer. This filing noted Commission Authority No. 55995 held by Denvers Airport.

7. On April 24, 2024, the Commission deemed the application complete and referred it by minute entry to the undersigned Administrative Law Judge (“ALJ”) for disposition.

8. On May 22, 2024, by Decision No. R24-0345-I, the amendment was granted, the intervention of Denvers Airport was granted, and a prehearing conference was scheduled.

9. On June 14, 2024, by Decision No R24-0519-I an evidentiary hearing was scheduled for September 19, 2024.

10. On September 19, 2024, the Parties filed their Joint Motion for Approval of Settlement, Restrictive Amendment of Application, Conditional Withdrawal of Intervention and to Vacate Hearing.

II. AMENDMENT

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

For 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 Adams, Arapahoe, Boulder, Denver, Douglas Jefferson, and Weld, State of Colorado.

RESTRICTION ALL COUNTIES

Restricted against providing transportation to and from Red Rocks Park and Amphitheater and to and from Lookout Mountain.

RESTRICTIONS IN DENVER COUNTY

A. Restricted to trips which either originate from or terminate at Denver International Airport.

B. Restricted against trips which either originate from or terminate at Sheraton Denver Downtown Hotel located at 1550 Court Pl, Denver, CO 80202 (including using drop-off locations within a block's walking distance from this location).

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 intervention of Denvers Airport, will be withdrawn.

III. FINDINGS AND CONCLUSIONS

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

17. Applicant requests authority to begin operations as a common carrier.

18. 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.

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

IV. ORDER**A. It Is Ordered That:**

1. The Joint Motion for Approval of Settlement, Restrictive Amendment of Application, Conditional Withdrawal of Intervention and to Vacate Hearing filed by Blue21 LLC, doing business as Blue Shuttle “(Blue Shuttle”) and Denvers Airport Transport, LLC is granted.

2. The verified Application for a Certificate of Public Convenience and Necessity (“CPCN”) to Operate as a Common Carrier of Passengers by Motor Vehicle is amended consistent with the discussion above.

3. The evidentiary hearing scheduled for September 19, 2024, is vacated.

4. The intervention filed by Denvers Airport Transport, LLC are withdrawn, and they are dismissed from the proceeding.

5. Blue Shuttle, is granted a Certificate of Public Convenience and Necessity to Operate as a Common Carrier of Passengers by Motor Vehicle as follows:

passengers in-call-and-demand shuttle service

between all points in the Counties of Adams, Arapahoe, Boulder, Denver, Douglas Jefferson, and Weld, State of Colorado.

RESTRICTION ALL COUNTIES

Restricted against providing transportation to and from Red Rocks Park and Amphitheater and to and from Lookout Mountain.

RESTRICTIONS IN DENVER COUNTY

A. Restricted to trips which either originate from or terminate at Denver International Airport.

B. Restricted against trips which either originate from or terminate at Sheraton Denver Downtown Hotel located at 1550 Court Pl, Denver, CO 80202 (including using drop-off locations within a block’s walking distance from this location).

6. Blue Shuttle shall operate in accordance with all applicable Colorado laws and Commission rules.

7. Blue Shuttle 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, Express Services 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 and by following the transportation common and contract carrier links to tariffs); and
- (d) paying the applicable issuance fee.

8. If Blue Shuttle, 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.

9. The Commission will notify Blue Shuttle in writing when the Commission's records demonstrate compliance with paragraph 7.

10. Proceeding No. 24A-0127CP is closed.

11. 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.

12. 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.

13. 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.

14. 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.

15. 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

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

ROBERT I. GARVEY

Administrative Law Judge

A handwritten signature in cursive script that reads "Rebecca E. White".

Rebecca E. White,
Director