

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 24A-0415CP-EXT

IN THE MATTER OF THE APPLICATION OF CCT HOLDINGS LIMOS, LLC DOING BUSINESS AS COLORADO CANNABIS TOURS, FOR AUTHORITY TO EXTEND OPERATIONS UNDER CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY NO. 55977.

**INTERIM DECISION DENYING INTERVENTION;
GRANTING APPLICATION UNDER MODIFIED
PROCEDURE; AND CLOSING PROCEEDING**

Issued Date: December 30, 2024

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I. STATEMENT

1. On September 27, 2024, CCT Holdings Limos, LLC, doing business as Colorado Cannabis Tours (“Cannabis Tours”), filed an Application for Permanent Authority to Extend Operation as a Common Carrier by Motor Vehicle for Hire (“Application”). The Application included a Certificate of Fact of Good Standing and a Statement of Trade Name, both from the Colorado Secretary of State’s Office, and a copy of Certificate of Public Convenience and Necessity (“CPCN”) No. 55977.

2. The Application seeks authority to extend operations under CPCN No. 55977.

3. On October 8, 2024, the Commission provided public Notice of the Application pursuant to § 40-6-108(2), C.R.S. as follows:

Currently, CPCN No. 55977 authorizes the following:

Transportation of passengers, in call-and-demand shuttle service between all points in the Counties of Adams, Arapahoe, and Denver, State of Colorado.

The proposed extension of operations under CPCN No. 55977 is as follows:

Transportation of passengers, in scheduled service between all points in the Counties of Denver and Jefferson, State of Colorado.

4. On October 14, 2024, Mountain Star Transportation LLC doing business as Red Rocks Shuttle (“Red Rocks Shuttle”) filed its Petition for Intervention and Entry of Appearance. Red Rocks Shuttle states that it operates CPCN No. 55952 authorizing the transportation of passengers “within the scope of the application.” A copy of the CPCN, attached with the filing, authorizes:

(I) Transportation of passengers in call-and-demand sightseeing service originating in Denver and Boulder Counties, to all points in the Counties of Denver, Boulder, Clear Creek, Douglas, El Paso, Grand, Jefferson, and Larimer, State of Colorado, returning to the origination point.

(II) Transportation of passengers in scheduled service and call-and-demand shuttle service: (A) Between all points in Denver County, on the one hand, and all points in Eagle county, on the other hand; (B) Between all points in Denver County, on the one hand, and all points in Pitkin County, on the other hand; and (C) Between all points in the Counties of Eagle and Pitkin, State of Colorado.

(III) Transportation of passengers in call-and-demand shuttle service between all points in Denver County and Origin Hotel Red Rocks at 18485 West Colfax Avenue in Golden, Colorado 80401, on the one hand, and Red Rocks Park and Amphitheatre, State of Colorado, on the other hand.

RESTRICTIONS:

Item (II) is restricted against the transportation of passengers in vehicles with a manufacturer's rate passenger capacity of less than 9 passengers, including the driver.

Item (III) is restricted against the transportation of passengers to and/or from Denver International Airport.

5. On October 21, 2024, the Colorado Cannabis Tours Motion to Strike and Response to Intervention of Mountain Star Transportation, LLC, was filed.

6. On October 28, 2024, Aspire Tours LLC ("Aspire Tours") filed the Petition for Intervention and Entry of Appearance. Aspire Tours operates CPCN No. 55865 authorizing the transportation of passengers "within the scope of the application." At the same time, a copy of the CPCN was filed which authorizes:

(I) In call-and-demand sightseeing service between all points in the Counties of Adams, Arapahoe, Chaffee, Douglas, El Paso, Fremont, Lake, Larimer, Park, Summit, Teller, and Weld, State of Colorado.

(II) In call-and-demand sightseeing service between all points in the Counties of Adams, Arapahoe, Boulder, Broomfield, Denver, Douglas, and Jefferson, State of Colorado.

(III) In call-and-demand sightseeing service originating in the Counties of Adams, Arapahoe, Boulder, Broomfield, Denver, Douglas, El Paso, and Jefferson, to all points in the Counties of Alamosa, Boulder, Chaffee, Clear Creek, Custer, Eagle, El Paso, Fremont, Gilpin, Grand, Gunnison, Hinsdale, Lake, Larimer, Montrose, Ouray, Park, Pitkin, Routt, Saguache, San Juan,

San Miguel, Summit, and Teller, State of Colorado, returning to the origination point.

(IV) In call-and-demand sightseeing service originating in the County of Chaffee, State of Colorado, to all points in the Counties of Alamosa, Custer, Gunnison, and Saguache, State of Colorado returning to the origination point.

(V) In call-and-demand shuttle service between all points in the Counties of Adams, Arapahoe, Boulder, Broomfield, Chaffee, Denver, Douglas, El Paso, Jefferson, Eagle, Gilpin, Larimer, Pitkin, San Juan, San Miguel, and Summit, State of Colorado.

RESTRICTIONS:

1. Until November 1, 2020, against transportation of passengers in call-and-demand shuttle service to any location on the Pikes Peak Highway in the County of El Paso, Colorado. This restriction shall no longer be effective beginning November 1, 2020.

2. Until November 1, 2020, against transportation of passengers in call-and-demand sightseeing service between the Counties of Boulder, Broomfield, Denver, and Jefferson to any location on the Pikes Peak Highway in the County of El Paso, Colorado. This restriction shall no longer be effective beginning November 1, 2020.

7. On October 29, 2024, Red Rocks Shuttle filed the Response to Motion to Strike the Intervention.

8. On November 4, 2024, the Colorado Cannabis Tours Motion to Strike and Response to Intervention of Aspire Tours LLC, was filed.

9. On November 8, 2024, the Colorado Cannabis Tours Motion for Leave to Reply and Reply to Response of Mountain Star Transportation, LLC was filed.

10. On November 13, 2024, the Commission deemed the Application complete and referred the matter an Administrative Law Judge (“ALJ”) by minute entry.

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

II. FINDINGS AND CONCLUSIONS

A. Intervention of Red Rocks Shuttle

12. Red Rocks claims a legally protected interest based upon its authority because it provides call-and-demand shuttle services between Denver County and Red Rocks Ampitheater and between Origin Hotel at 18485 West Colfax Avenue in Golden, Colorado, 80401 and Red Rocks Ampitheater and call-and-demand sightseeing service between Denver and Jefferson counties which the Applicant has also proposed to serve.

13. If the Application is approved, Red Rocks Shuttle contends that the requested CPCN would overlap its CPCN and that it is ready, willing, and able, to provide that service. Further, approval would be contrary to the public interest, resulting in a diversion of traffic and duplicate the services of Red Rocks Shuttle.

14. Red Rocks Shuttle also requests permissive intervention.

B. Intervention of Aspire Tours

15. Aspire Tours claims a legally protected interest based upon its authority because it provides call-and-demand sightseeing service between Denver and Jefferson Counties which the Applicant has also proposed to serve provides call-and-demand sightseeing service in the counties of Denver and Jefferson which Applicant has also proposed to serve.

16. If the Application is approved, Aspire Tours contends that the requested CPCN would overlap its CPCN and that it is ready, willing, and able, to provide that service. Further, approval would be contrary to the public interest, resulting in the possible diversion of traffic.

17. Aspire Tours also requests permissive intervention.

C. Motions to Strike

18. In its motions to strike, Cannabis Tours emphasizes that the Application seeks “scheduled service between all points in the Counties of Denver and Jefferson.” Scheduled service being distinct, Cannabis Tours contends that approval of the application would not overlap a legally protected interest in existing authority of Mountain Star or Aspire Tours. Accordingly, neither Mountain Star nor Aspire Tours should not be allowed intervention by right or by permissive intervention.

D. Motion for Leave to Reply

19. Rule 1400 provides that no reply may be filed to a response unless the Commission orders otherwise. Any motion for leave to file a reply must show

(I) a material misrepresentation of a fact;

(II) accident or surprise, which ordinary prudence could not have guarded against;

(III) newly discovered facts or issues, material for the moving party which that party could not, with reasonable diligence, have discovered at the time the motion was filed; or

(IV) an incorrect statement or error of law.

20. Rule 1400(a) requires any motion involving a contested issue of law to be supported by a recitation of legal authority incorporated into the motion.

21. Cannabis Tours challenges factual assertions by Mountain Star that it has applied for authority to provide scheduled service over the same route that Mountains Star provides call and demand service and that it would significantly affect Mountain Star’s service.

22. Additionally, Cannabis Tours challenges that Mountain Star makes incorrect statements of law that scheduled service would overlap call-and-demand service.

23. Based upon good cause shown, Cannabis Tours will be permitted to reply to Mountain Star's response and the filed reply will be considered.

E. Cannabis Tours Response

24. Cannabis Tours argues that Mountain Star has no authority to provide scheduled service over any "designated route" in Denver and Jefferson Counties. Accordingly, the Application neither seeks the same route nor the same service. If granted, Cannabis Tours must, and will, file a Tariff for Commission review regarding the fixed points, designated routes, and established times for service, in accordance with Commission rules. Additionally, it is argued that scheduled service and call-and-demand services are distinct under Colorado law and Commission rules and the approval of the requested authority will not overlap Mountain Star's existing authority.

F. Discussion

25. Intervention in proceedings before the Commission are governed by § 40-6-109(1) C.R.S. Two classes of intervenors who may participate: (1) those who may intervene as of right and (2) those whom PUC permits to intervene. *Pub. Serv. Co. v. Trigen-Nations Energy Co.*, 982 P.2d 316, 327 (Colo. 1999), *citing* *Yellow Cab Coop. Ass'n v. Public Utils. Comm'n*, 869 P.2d 545, 550 (Colo. 1994); *RAM Broad. of Colorado v. Public Utils. Comm'n*, 702 P.2d 746, 749 (Colo. 1985); *De Lue v. Public Utils. Comm'n*, 169 Colo. 159, 164, 454 P.2d 939, 941-42 (1969).

26. "Only entities who possess the requisite interest in or are affected by PUC proceedings may intervene in those proceedings." *Yellow Cab Coop. Ass'n*, 869 P.2d at 552.

1. Intervention of Right

27. Intervenors are permitted in Commission proceedings by right where the authority sought may affect a claimed legally protected right. Rule 1401, 4 *Colorado Code of Regulations* (“CCR”) 723-1, provides that a notice of intervention as of right must include a copy of the common carrier's letter of authority, must show that the common carrier's authority is in good standing, must identify the specific parts of that authority that are in conflict with the application, and must explain the consequences to the common carrier and the public interest if the application is granted.

28. A motion to strike intervention may be filed to challenge a claim of a party's legally protected interest or the party's request for hearing. “[W]hen determining whether an intervention of right is appropriate, it is important to determine whether the intervener's letter of authority shows that it has the right to operate in a manner that may be impacted by an application's requested authority.” Decision No. R19-0399-I, issued May 8, 2019, in Proceeding No. 19A-0120CP at ¶14.

29. As argued by Cannabis Tours, Colorado law and Commission rules distinguish and distinctly define call-and-demand shuttle, call-and-demand sightseeing, and scheduled services. While each service is regulated under the Doctrine of Regulated Monopoly, the doctrine does not grant monopoly protection from other services not provided by the incumbent provider.

30. The application seeks authority to provide scheduled service as a common carrier.

31. Despite being titled a petition, Red Rocks Shuttle first claims that it has a legally protected right to provide common carrier call-and-demand shuttle service and call-and-demand sightseeing service within the geographic scope of the territory in which Cannabis Tours seeks to provide scheduled common carriage.

32. Again, despite being titled a petition, Aspire Tours similarly claims that it has a legally protected right to provide call-and-demand shuttle service and call-and-demand sightseeing service as a common carrier within the geographic scope of the territory in which Cannabis Tours seeks to provide scheduled common carriage.

33. The call-and-demand transportation services that Red Rocks Shuttle and Aspire Tours are authorized to provide in the overlapping service territory are different from the scheduled service that Cannabis Tours seeks to provide. Rule 6001(g),(p),(lll),(ooo),(nnn), and (yyy) of the Rules Regulating Transportation by Motor Vehicle, 4 CCR 723-6. Granting Cannabis Tours a CPCN to provide scheduled service as a common carrier is not in conflict with the authority of Red Rocks Shuttle and Aspire Tours to provide different call-and-demand common carriage in an overlapping geographic service territory. Decision No. 86642, issued April 14, 1975, in Application No. 27997-Extension, Decisions Vol. 382. While it is true that both Red Rocks Shuttle and Aspire Tours hold CPCNs and have the right to operate pursuant to their respective authorities, their legally protected rights to do so are not affected by the grant or denial of authority for Cannabis Tours to provide scheduled service that neither Red Rocks Shuttle nor Aspire Tours are authorized to provide. The converse is also true that, even if the Application is granted, Cannabis Tours will not be authorized to provide either call-and-demand shuttle service or call-and-demand sightseeing service.

34. It is found and concluded that Red Rocks Shuttle and Aspire Tours failed to demonstrate any claimed legal right in specific parts of their respective authorities that conflict with the authority sought in the Application or that would be affected if the Application is granted. The claimed interventions of right will be stricken.

2. Permissive Intervention

35. Having stricken intervention by right, analysis next turns to alternative petitions for permissive intervention. Pursuant to Rule 1401(c), a motion to permissively intervene shall:

shall state the specific grounds relied upon for intervention; the claim or defense within the scope of the Commission's jurisdiction on which the requested intervention is based, including the specific interest that justifies intervention; and why the filer is positioned to represent that interest in a manner that will advance the just resolution of the proceeding.

Rule 1401(c) further requires that:

[t]he motion must demonstrate that the subject proceeding may substantially affect the pecuniary or tangible interests of the movant (or those it may represent) and that the movant's interests would not otherwise be adequately represented....Subjective, policy, or academic interest in a proceeding is not a sufficient basis to intervene.

36. In accordance with § 40-6-101(1), C.R.S., the Commission "shall conduct its proceedings in such manner as will best conduce the proper dispatch of business and the ends of justice." Section 24-4-105, C.R.S., "grants substantial discretion" to agencies such as the Commission "to control the scope and presentation of evidence" in a proceeding. An ALJ shall "regulate the course of the hearing," "issue appropriate orders that shall control the subsequent course," and "dispose of motions to intervene."

37. A critical element of this case is that the Applicant seeks to provide scheduled service where those requesting intervention are authorized only to provide call and demand service. In Decision No. R09-0568, issued May 29, 2009, in Proceeding No. 08A-479CP, at 18-19, exceptions denied in Decision No. R09-0812, issued July 28, 2009, it was recognized:

58. The Commission has historically recognized the superior nature of scheduled service, particularly as compared to call-and-demand service, because of the obligations undertaken. *See e.g.*, Decision Nos. R95-0979-I, R95-1002-I, and R92-1093. *See also* *Boulder Airporter v. Rocky Mt. Shuttles*, 918 P.2d 1118, 1122 (Colo. 1996).

59. A scheduled service provider is bound to serve all service points on all trips without regarding to the level of demand for any particular trip. They are obliged to render adequate service to the public. The Supreme Court summarized:

It seems clear to us that any definition of 'scheduled operations' must entail the concept of service on a regular time schedule previously announced as to time of departure and arrival between definitely established points regardless of whether there are passengers or freight to be carried. It is because a scheduled carrier must operate its equipment -- whether fully loaded or not -- that distinguishes it from the common carrier offering only call and demand service; and the risks and burdens entailed in such 'scheduled operation' are what entitles the former carrier to protection.

J.C. Trucking, Inc. v. Public Utilities Com., 776 P.2d 366, 373 (Colo. 1989)(quoting *Eveready Freight Service, Inc. v. Public Utilities Commission*, 167 Colo. 577, 581, 449 P.2d 642, 644 (1969)). Jeopardizing financial feasibility of scheduled service seriously impairs service to the public. *Public Utilities Com. v. Donahue*, 138 Colo. 492, 499 (Colo. 1959).

38. Considering the superior nature of scheduled service, the Commission has “deemed a call and demand carrier as having an insufficient interest to intervene in a scheduled carrier's application, [however,] the converse is not true. The scheduled service, being a superior service, would have a right to intervene, generally speaking, in a call and demand application.” Decision No. R93-639-I, 92M-303CP issued June 7, 1993, at 3-4.

39. Denying intervention of two incumbent providers, the Commission has relied upon the different legal rights and obligations under Commission rules and Colorado law applicable to the respective carriers. See Decision No. C96-129, issued January 31, 1996, in Docket No. 95A-422CP. See also, Decision No. R19-0399, issued May 8, 2019, in Proceeding No. 19A-0120CP.

40. As to sufficiency of interest herein, it is also noted that Cannabis Tours holds a CPCN authorizing it to provide competing service that may overlap incumbent authorities. It is

already authorized to provide call-and-demand shuttle service between all points in the Counties of Adams, Arapahoe, and Denver.¹

41. Both petitions vaguely speculate and conclusory state that approval of the application to provide scheduled service could or would divert traffic from their call and demand services, endangering investments. Petitioners do not identify how and to what extent call-and-demand services put them at competition with Cannabis Tours' scheduled service. Rather, they would have the Commission deny availability of scheduled service to the public.

42. As addressed above, Cannabis Tours seeks authority to provide service not provided by petitioners and does not seek to provide any service provided by petitioners. It is found and concluded that based upon the record in this proceeding, the petitioners failed to demonstrate a sufficient direct pecuniary or tangible interest in this matter that would warrant the grant of permissive intervention. Notably also, the providers of call-and-demand service failed to demonstrate that they are legally protected from competition in a service territory by a provider of superior scheduled service fulfilling unmet public demand for service petitioners do not provide.

43. The requests for permissive intervention by Red Rocks Shuttle and Aspire Tours will be denied.

3. Application

44. The striking and denial of interventions leaves the Application, as amended, uncontested. Pursuant to § 40-6-109(5), C.R.S., and Rule 1403 of the Rules of Practice and Procedure, 4 CCR 723-1, the uncontested application may be processed under the modified procedure, without a formal hearing.

¹ As sightseeing service effectively represents a restriction upon call-and-demand shuttle service, potential intervenors arguing interests based upon shuttle and sightseeing authorities failed to demonstrate any consideration of partially overlapping Cannabis Tours' existing authority affecting interest in this proceeding.

45. CCT Holdings Limos, LLC is a limited liability company in good standing.

46. Colorado Cannabis Tours is a trade name registered with the Secretary of State by CCT Holdings Limos, LLC and currently in effect.

47. Applicant requests an extension of operations under Certificate of Public Convenience and Necessity No. 55977 to authorize:

Transportation of passengers:

(I) In call-and-demand shuttle service

between all points in the Counties of Adams, Arapahoe, and Denver, State of Colorado.

(II) In scheduled service

between all points in the Counties of Denver and Jefferson, State of Colorado.

48. The Application of CCT Holdings Limos, LLC, doing business as Colorado Cannabis Tours, for Permanent Authority to Extend Operations Under Certificate of Public Convenience and Necessity No. 55977 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.

49. The information provided demonstrates that Cannabis Tours possesses sufficient equipment to provide the proposed service and is financially fit to conduct operations under the authority requested.

50. Addressing public need, Cannabis Tours states in the application that it provides a safe and educational method for members of the public over the age of 21, with valid government-issued ID, to visit Colorado's licensed cannabis businesses. The company states that there is public need for such transportation to support approval of the expanded service territory, and that service

is provided in vehicles licensed by the Colorado Marijuana Enforcement Division for the lawful consumption of cannabis by adults. The Application demonstrates that a need exists for the proposed service, restricted to the scope of demonstrated need.

51. It is found that Cannabis Tours is fit to provide the proposed transportation service and the Application is reasonable, in the public interest, and should be granted.

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

III. ORDER

A. The Commission Orders That:

1. The Colorado Cannabis Tours Motion for Leave to Reply and Reply to Response of Mountain Star Transportation, LLC, filed on November 8, 2024, is granted.

2. The Colorado Cannabis Tours Motion to Strike and Response to Intervention of Mountain Star Transportation, LLC, on October 21, 2024, is granted.

3. The claimed intervention of right filed by Mountain Star Transportation LLC doing business as Red Rocks Shuttle (“Red Rocks Shuttle”) on October 14, 2024, is stricken. The Petition for Intervention filed by Red Rocks Shuttle on October 14, 2024, is denied.

4. The Colorado Cannabis Tours Motion to Strike and Response to Intervention of Aspire Tours LLC, filed on November 4, 2024, is granted.

5. The claimed intervention of right filed by Aspire Tours LLC (“Aspire Tours”) on October 28, 2024, is stricken.

6. The Petition for Intervention filed by Aspire Tours on October 28, 2024, is denied.

7. The Application of CCT Holdings Limos, LLC, doing business as Colorado Cannabis Tours, for Permanent Authority to Extend Operations Under Certificate of Public

Convenience and Necessity No. 55977 filed on September 27, 2024, is granted subject to the restrictions and conditions identified below.

8. Cannabis Tours is granted an extension under Certificate of Public Convenience and Necessity PUC No. 55977 to operate as a common carrier by motor vehicle for hire as follows:

Transportation of passengers:

(I) In call-and-demand shuttle service

between all points in the Counties of Adams, Arapahoe, and Denver, State of Colorado.

(II) In scheduled service

between all points in the Counties of Denver and Jefferson, State of Colorado.

RESTRICTIONS:

Part (II) is restricted to providing transportation of passengers twenty-one years of age or older, with valid government-issued ID, in vehicles licensed by the Colorado Marijuana Enforcement Division for the lawful consumption of cannabis by adults.

9. Cannabis Tours must operate in accordance with all applicable Colorado laws and Commission rules and may not commence operation under the extended authority granted 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. To this end, Cannabis Tours must file an advice letter and tariff on not less than ten days' notice. The advice letter and tariff must be filed as a new Advice Letter proceeding and must 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 www.colorado.gov/pacific/dora/common-carriers); and

d. paying the applicable issuance fee.

10. If Cannabis Tours 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 will 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.

11. The Commission will notify Cannabis Tours in writing when the Commission's records demonstrate compliance with ordering paragraph 11.

12. Proceeding No. 24A-0415CP-EXT is closed.

13. 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.

14. 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.

a. 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.

15. 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.

16. 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.



THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Administrative Law Judge

Rebecca White