

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 19A-0652CP

IN THE MATTER OF THE APPLICATION OF STRAWBERRY PARK HOT SPRINGS SHUTTLE LLC FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE AS A COMMON CARRIER BY MOTOR VEHICLE FOR HIRE.

**INTERIM DECISION OF
ADMINISTRATIVE LAW JUDGE
MELODY MIRBABA
SCHEDULING PREHEARING CONFERENCE**

Mailed Date: January 14, 2020

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I. STATEMENT, FINDINGS, AND CONCLUSIONS

1. On November 21, 2019, Strawberry Park Hot Springs Shuttle LLC, doing business as Steamboat Strawberry Park (Strawberry Park) commenced this proceeding by filing a verified Application for Permanent Authority to Operate as a Common Carrier by Motor Vehicle for Hire (Application) with the Colorado Public Utilities Commission. The Application seeks authority to operate as a common carrier for the transportation of passengers in call-and-demand

shuttle service between all points in Routt County, Colorado. The Application is restricted to transportation services to and from Strawberry Park Hot Springs in Steamboat Springs, Colorado.

2. The Application also states that Strawberry Park wishes to be represented by a non-attorney, and establishes that Strawberry Park has no more than three owners, and that Strawberry Park believes that less than \$15,000 is at issue in this proceeding. Application at ¶ 21. It does not identify the person whom Strawberry Park wishes to represent it in this proceeding. On November 26, 2019, Strawberry Park filed a document titled “Item 21 of Application” stating that it wishes for Abdallah Batayneh to represent it in this matter. The Application identifies Mr. Batayneh’s title as the company’s “Sole Member.” Application at ¶22.

3. The Commission gave public notice of the Application on November 25, 2019.

4. On December 20, 2019, Hot Springs Shuttle LLC, doing business as The Hot Springs Shuttle (Hot Springs), filed a Notice of Intervention of Right (Notice) objecting to the Application. With the Notice, Hot Springs filed its Commission-issued Letter of Authority establishing that it has authority to operate “call-and-demand shuttle service between all points within a ten-mile radius of the intersection of Lincoln Avenue and Seventh Street, Steamboat Springs, Colorado, on the one hand, and Strawberry Park Hot Springs, 44200 County Road 36, Steamboat Springs, Colorado, on the other hand.” Hot Springs argues that it has an interest in this proceeding because granting the Application will cause Hot Springs to lose revenue since the Application seeks an authority to operate within the service territory that Hot Springs serves. Simultaneous with the Notice, Hot Springs also filed a document titled, “Legal Representation for Hot Springs Shuttle LLC” establishing that Hot Springs has no more than three owners, that

it believes the amount in controversy does not exceed \$15,000, and that it wishes for its owner, Daniel White (a non-attorney) to represent it in this matter.

5. On December 26, 2019, Sweet Pea Tours SBS, Inc., doing business as Sweet Pea Tours (Sweet Pea), filed a Petition for Leave to Intervene (Petition) objecting to the Application. With the Petition, Sweet Pea filed a copy of its PUC Letter of Authority establishing that it has authority to operate “call-and-demand limousine service, between all points in Steamboat Springs, Colorado, on the one hand and the Strawberry Hot Springs, near Steamboat Springs, Colorado, on the other hand,” with restrictions. Sweet Pea argues that it has an interest in this proceeding because granting the Application will cause Sweet Pea to lose revenue since the Application seeks an authority to operate within the service territory that Sweet Pea serves. With the Petition, Sweet Pea also submitted a letter establishing that Sweet Pea has no more than three owners, that it believes the amount in controversy does not exceed \$15,000, and that it wishes for its owner, Jorge Espinosa (a non-attorney) to represent it in this matter.

6. During the Commission’s weekly meeting held January 2, 2020, the Commission deemed the Application complete and referred this matter to an administrative law judge (ALJ) for disposition.

A. Interventions.

7. The ALJ finds that Hot Springs and Sweet Pea have properly intervened of right, consistent with Commission Rule 1401(e)(I), 4 *Code of Colorado Regulations* (CCR) 723-1 of the Rules of Practice and Procedure. Specifically, Hot Springs’s Notice and Sweet Pea’s Petition identifies at least one service territory and type within their Letters of Authority in conflict with the authority Strawberry Park seeks here. As a result, Hot Springs and Sweet Pea are parties and interveners in this proceeding.

B. Representation.

8. The ALJ finds that Strawberry Park, Hot Springs, and Sweet Pea established that they may be represented by non-attorneys in this proceeding, consistent with § 13-1-127(2), C.R.S. (2019), and Rule 1201(b)(II), 4 CCR 723-1. Specifically, the ALJ finds that all three companies are closely-held entities with no more than three owners, the amount in controversy is less than \$15,000, and that the persons identified to represent each of the companies have authority to do so. As such, the ALJ will allow Mr. Batayneh to represent Strawberry Park, Mr. White to represent Hot Springs, and Mr. Espinosa to represent Sweet Pea.

C. Deadline for a Final Commission Decision.

9. Under § 40-6-109.5(1), C.R.S. (2019), a final Commission decision must issue by May 1, 2020. As explained, two parties contest the Application; as a result, the matter must move forward to an evidentiary hearing. Based on this, and the ALJ's review of the complete record in the case, the ALJ finds that additional time is necessary for a final Commission decision to issue. As a result, the ALJ will extend the time for a final Commission decision to issue by 130 days, as permitted by § 40-6-109.5(1), C.R.S. The new deadline for a final Commission decision is September 8, 2020.

D. Prehearing Conference.

10. In anticipation of the evidentiary hearing on the Application, the ALJ is scheduling a prehearing conference in accordance with Rule 1409(a), 4 CCR 723-1. The parties may appear at the prehearing conference in person or by telephone. Information on how to appear by telephone is included below.

11. *Strawberry Park is on notice that* failure to appear at the prehearing conference may result in dismissal of the Application for failing to pursue or prosecute it.

12. *Hot Springs and Sweet Pea* are on notice that failing to appear at the prehearing conference may result in a decision adverse to their interests, including granting the Application.

13. *All parties are on notice that* the ALJ will deem any party's failure to appear at the prehearing conference to be a waiver of that party's objection to the rulings made during the prehearing conference.

14. At the prehearing conference, a hearing date will be scheduled, and deadlines to file and exchange witness and exhibits lists and exhibits will be set. As a result, the parties must be prepared to discuss how much time they will require to present their evidence at hearing, the timing for a hearing, and the referenced deadlines. Any party may raise other issues relevant to this proceeding at the prehearing conference, including any agreements impacting this proceeding.

II. ORDER

A. It Is Ordered That:

1. A telephonic prehearing conference is scheduled as follows:

DATE: January 28, 2020
TIME: 10:00 a.m.
LOCATION: Call (303) 869-0599

Commission Hearing Room
1560 Broadway, 2nd Floor
Denver, Colorado

2. Sweet Pea Tours SBS, Inc., doing business as Sweet Pea Tours (Sweet Pea), and Hot Springs Shuttle LLC, doing business as Hot Springs Shuttle (Hot Springs), are interveners in this proceeding.

3. Consistent with the above discussion, Mr. Batayneh is authorized to represent Strawberry Park Hot Springs Shuttle LLC, doing business as Steamboat Strawberry Park in this proceeding; Mr. White is authorized to represent to represent Hot Springs in this proceeding; and Mr. Espinosa is authorized to represent Sweet Pea in this proceeding.

4. The time for a final Commission decision to issue is extended by 130 days, consistent with § 40-6-109.5(1), C.R.S.

5. This Decision is effective immediately.

(S E A L)



THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

MELODY MIRBABA

Administrative Law Judge

ATTEST: A TRUE COPY

A handwritten signature in cursive script that reads 'Doug Dean'.

Doug Dean,
Director