

Decision No. C21-0124

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 21A-0052CP-EXT

IN THE MATTER OF THE APPLICATION OF FUN TYME TROLLEYS, LLC, DOING BUSINESS AS ESTES PARK TROLLEYS TO EXTEND OPERATIONS UNDER CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY NO. 55845S.

**COMMISSION DECISION GRANTING
PERMANENT AUTHORITY TO EXTEND
OPERATIONS SUBJECT TO CONDITIONS**

Mailed Date: March 4, 2021

Adopted Date: March 3, 2021

I. BY THE COMMISSION

A. Statement, Findings, and Conclusions

1. On January 21, 2021, Fun Tyme Trolleys, LLC, doing business as Estes Park Trolleys (Estes Park Trolleys) filed an application for new permanent authority to extend operations under Certificate of Public Convenience and Necessity (CPCN) PUC No. 55845S.

2. Estes Park Trolleys' CPCN PUC No. 55845S currently authorizes:

Transportation of passengers in call-and-demand charter service and call-and-demand sightseeing service between all points within 30 miles of the intersection of U.S. Highway 34 and U.S. Highway 36 in Estes Park, Colorado.

RESTRICTIONS: (A) to the use of vehicles with a manufacturer's rated seating capacity of 22 or more passengers, excluding the driver; (B) to operating from April 1st through October 31st of each year, and (C) to the use of vehicles which appear to be trolleys, which have wooden seats, and which are otherwise referred to as Non-Traditional Novelty Transportation Vehicles or Non-Traditional Theme Transportation Vehicles.

3. Estes Park Trolleys requests authority to extend CPCN PUC No. 55845S by the elimination of each of the restrictions. The extended CPCN PUC No. 55845S will authorize:

Transportation of passengers in call-and-demand charter service and call-and-demand sightseeing service between all points within 30 miles of the intersection of U.S. Highway 34 and U.S. Highway 36 in Estes Park, Colorado.

4. The Commission noticed this application to all interested persons, firms, and corporations pursuant to § 40-6-108(2), C.R.S., on January 25, 2021, for a period of thirty days.

5. The notice period expired on February 24, 2021. No petition to intervene or otherwise participate in this proceeding has been filed. This proceeding is uncontested. Under § 40-6-109(5), C.R.S., this matter may be determined without a hearing.

6. Pursuant to Rule 6203(a) of the Rules Regulating Transportation by Motor Vehicle, 4 *Code of Colorado Regulations* 723-6, the Commission finds that the information submitted by Estes Park Trolleys with this application warrants the granting of the requested extension of CPCN PUC No. 55845S.

7. The present or future public convenience and necessity requires, or will require, the transportation service as requested.

8. Estes Park Trolleys is fit to perform the service as requested.

9. This application for permanent authority is in the public interest.

10. Estes Park Trolleys is granted, subject to conditions, an extension of authority under CPCN PUC No. 55845S¹ as set forth in the Appendix attached to this Decision, conditioned upon its full compliance with the requirements contained in this Decision.

¹ The addition of the letter S to CPCN PUC No. 55845S indicates that the transportation service authorized by the certificate may only be provided during the time period named in Restriction (C). The elimination of

11. If Estes Park Trolleys fails to comply with the prerequisites required by Ordering Paragraph No. 3 within 60 days of the effective date of the Decision, the requested extension of CPCN 55845S will be deemed denied and Estes Park Trolleys will not be granted the requested permanent authority, the CPCN shall not be issued, and Estes Park Trolleys shall not be permitted to operate under the requested CPCN authority. No further action of the Commission is required.

12. For good cause shown, the Commission may grant additional time for compliance with Ordering Paragraph No. 3 if the request for additional time is filed within 60 days of the effective date of this Decision.

13. The Commission will notify Estes Park Trolleys in writing when the Commission's records demonstrate it has fully complied with the requirements of Ordering Paragraph No. 3. Estes Park Trolleys shall not begin operations without the receipt of written notification of compliance from the Commission.

II. ORDER

A. The Commission Orders That:

1. This application was deemed complete for purposes of § 40-6-109.5, C.R.S., on March 3, 2021.

2. The issuance of an extension of authority under Certificate of Public Convenience and Necessity (CPCN) PUC No. 55845S as set forth in Appendix A attached to this Decision is granted to Fun Tyme Trolleys, LLC, doing business as Estes Park Trolleys (Estes Park Trolleys), subject to its full compliance with the requirements contained in Ordering Paragraph No. 3.

Restriction (C) by the granting of this extension application requires the revision of the certificate number from 55845S to 55845.

3. Estes Park Trolleys shall not be granted the extension of authority under CPCN No. 55845S and shall not commence 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. 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 the proposed effective date. In calculating the proposed effective date, the date the tariff is 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 Estes Park Trolleys in the Commission's electronic filing system (E-Filings) and agree that Estes Park Trolleys shall receive notifications electronically through E-Filings. Information regarding E-filings can be found at: www.dora.state.co.us/pls/efi/EFI.homepage; and
- (f) pay the applicable fee (\$5.00) for the issuance of the authority.

4. The extension of authority under CPCN PUC No. 55845S shall not be issued and Estes Park Trolleys shall not operate under the extended authority unless it complies with all of the conditions in Ordering Paragraph No. 3.

5. If Estes Park Trolleys does not comply with each requirement in Ordering Paragraph No. 3, within 60 days of the effective date of this Decision, the extension of authority under CPCN PUC No. 55845S 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.

6. Estes Park Trolleys shall 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.

7. The 20-day time period provided by § 40-6-114(1), C.R.S., to file an application for rehearing, reargument, or reconsideration shall begin on the first day after the effective date of this Decision.

8. This Decision is effective on its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
March 3, 2021.**

(S E A L)



ATTEST: A TRUE COPY

Doug Dean,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

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Commissioners