

Decision No. C21-0188

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 21A-0097CP-TA

IN THE MATTER OF THE APPLICATION OF ESTES PARK GUIDED TOURS, LLC FOR
TEMPORARY AUTHORITY TO OPERATE AS A COMMON CARRIER BY MOTOR
VEHICLE FOR HIRE.

**COMMISSION DECISION DENYING
TEMPORARY AUTHORITY**

Mailed Date: March 30, 2021

Adopted Date: March 24, 2021

I. BY THE COMMISSION

A. Statement, Findings, and Conclusions

1. On March 2, 2021, Estes Park Guided Tours, LLC (Estes Park Guided Tours), filed an application for temporary authority¹ to operate as a common carrier by motor vehicle for hire.

2. In this application, Estes Park Guided Tours requests temporary authority to operate as a common carrier by motor vehicle for hire as follows:

Transportation of

passengers in call-and-demand sightseeing service

originating in Estes Park, Colorado to all points in Rocky Mountain National Park located in the Counties of Boulder, Grand, and Larimer, State of Colorado, and Grand Lake, Colorado.

3. The Commission gave notice of the application on March 8, 2021, for a period of five days pursuant to § 40-10.1-204(4), C.R.S.

¹ Pursuant to § 40-10.1-204(1), C.R.S., the Commission is authorized to grant temporary authority when "there appears to be an immediate and urgent need to any point or within a territory having no such service capable of meeting the need."

4. The notice period expired on March 15, 2021. Interventions to the temporary authority application were timely filed by Fun Tyme Trolleys, LLC, doing business as Estes Park Trolleys (Estes Park Trolleys) on March 10, 2021, and Estes Valley Transport, Inc. (Estes Valley Transport) on March 12, 2021.

5. Estes Park Trolleys may, under Common Carrier Certificate No. 55845S, transport passengers in 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.

6. Estes Valley Transport may, under Common Carrier Certificate No. 54696, transport passengers in call-and-demand sightseeing service, between all points within a ten-mile radius of the intersection of U.S. Highways 34 and 36 in Estes Park, Colorado, and between said points, on the one hand, and all points within a 75-mile radius of the intersection of U.S. Highways 34 and 36 in Estes Park, Colorado, on the other hand.

7. A review of the geographic area and type of service authorized by the common carrier certificates of Estes Park Trolleys and Estes Valley Transport does indicate that an overlap exists between the transportation services named in the certificates and the transportation service requested by Estes Park Guided Tours in this temporary authority application.

8. Pursuant to Rule 6204(c) of the Rules Regulating Transportation by Motor Vehicle, 4 *Code of Colorado Regulations* (CCR) 723-6, Estes Park Guided Tours must meet a two-fold test: first, that there is an immediate and urgent need for the proposed services, and second, that there is no existing carrier capable of meeting the need. If Estes Park Guided Tours fails to meet either test, the application must be denied.

9. Estes Park Guided Tours, provided the following statement to support this temporary authority application:

RMNP is currently the third most visited National Park in the United States. The population of Estes Park is less than 10,000, but there are over 4.5 million visitors to RMNP annually, which causes severe congestion both in town and in RMNP. Sightseeing tours greatly benefit the town and RMNP by reducing the number of vehicles and congestion. In addition to easing traffic, we provide valuable information regarding Park rules and safe wildlife viewing. Our photograph tours also get customers to areas most visitors drive past, alleviating parking problems in the Park.²

10. Estes Park Guided Tours submitted three letters³ from the public in support of this temporary authority application. The letters were submitted by the Estes Park Economic Development Corporation, the McGregor Mountain Lodge, and Visit Estes Park. The authors of the letters do express support for the transportation services being provided by Estes Park Guided Tours. However, the authors of these letters do not include statements as required by Rule 6204, 4 CCR 723-6, to show that there is an immediate and urgent need for the services requested in the temporary authority application.

11. In consideration of the information and letters of support submitted by Estes Park Guided Tours with this application and the interventions of two common carriers with authority to provide sightseeing service in the same geographic as requested in the temporary authority application, the Commission finds that Estes Park Guided Tours has not shown there is an immediate and urgent need for the transportation services requested in this application and that there is no existing carrier capable of meeting the need.

² Estes Park Guided Application at p. 4.

³ The authors of the letters indicate the letters were written on the following dates: Estes Park Economic Development Corporation – September 16, 2020; McGregor Mountain Lodge – March 9, 2020; and Visit Estes Park – March 12, 2020.

12. The Commission also finds that Estes Park Guided Tours has not met the requirements set forth in § 40-10.1-204, C.R.S., or Rule 6204, 4 CCR 723-6, to obtain temporary authority. Therefore, this application for temporary authority is not in the public interest and will be denied.

II. ORDER

A. The Commission Orders That:

1. The application filed on March 2, 2021, by Estes Park Guided Tours, LLC for temporary authority to operate as a common carrier by motor vehicle for hire is denied.

2. 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 Commission mails or serves this Decision.

3. This Decision is effective upon its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
March 24, 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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JOHN GAVAN

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Commissioners