

Decision No. C23-0406

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 23A-0189CP-XFER

IN THE MATTER OF THE APPLICATION FOR AUTHORITY TO TRANSFER CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY NOS. 55764 AND 55904 FROM MTN SHUTTLE LLC DOING BUSINESS AS MTN SHUTTLE TO ASPEN/SNOWMASS EXPRESS LLC DOING BUSINESS AS DENVER AIRPORT SHUTTLE EXPRESS.

**COMMISSION DECISION APPROVING TRANSFER OF
CERTIFICATES OF PUBLIC CONVENIENCE
AND NECESSITY
SUBJECT TO CONDITIONS**

Mailed Date: June 14, 2023

Adopted Date: June 7, 2023

I. BY THE COMMISSION

A. Statement, Findings, and Conclusions

1. On April 17, 2023, an application was filed requesting approval to transfer Certificates of Public Convenience and Necessity (CPCN) PUC Nos. 55764 and 55904 from MTN Shuttle LLC, doing business as MTN Shuttle, to Aspen / Snowmass Express LLC, doing business as Denver Airport Shuttle Express.¹

2. The Commission noticed this application to all interested persons, firms, and corporations pursuant to § 40-6-108(2), C.R.S., on April 24, 2023.

¹ Although Item No. 4 of the application lists the transferee's name to be the same as the transferor (MTN Shuttle LLC), it is clear from the entire application that this was a mistake, and that the transferee is Aspen / Snowmass Express LLC.

3. 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.

4. The information submitted with this application complies with Rule 6206(c) of the Rules Regulating Transportation by Motor Vehicle, 4 *Code of Colorado Regulations* (CCR) 723-6, and warrants the granting of the requested transfer.

5. The financial standing and overall fitness of the transferee has been satisfactorily established per § 40-10.1-205(3), C.R.S.

6. This application for permanent approval of the transfer of CPCN PUC Nos. 55764 and 55904 is in the public interest and will be granted, conditioned upon full compliance with the requirements contained in this Decision.

7. Pursuant to the application, the transfer of CPCN PUC No. 55764 to Aspen / Snowmass Express LLC, which already owns and operates another CPCN (PUC No. 55834), will create overlapping and/or duplicating authority in Summit County.² Therefore, Aspen / Snowmass Express LLC will be required to file a subsequent application to consolidate these certificates into one CPCN and to eliminate the overlaps and/or duplications therein.³ In the interim, to the extent that CPCN PUC Nos. 55764 and 55834 overlap and/or duplicate one another, only one authority shall be deemed to exist.

² Rule 6001 (z), 4 CCR 723-6, defines “duplicating or overlapping authority” to mean “transportation of the same Common Carrier Type of Service between the same points under two or more separate Authorities which are held by the same Fully Regulated Intrastate Carrier.”

³ Rule 6207, 4 CCR 723-6, states that “[t]he Commission may cancel Duplicating or Overlapping Authorities that arise as a result of any grant, extension, or other modification to a Certificate.” See, e.g., Proceeding Nos. 18A-0183CP-EXT and 20A-0193CP-EXT.

II. ORDER

A. The Commission Orders That:

1. This application was deemed complete on June 7, 2023, within the meaning of § 40-6-109.5, C.R.S.

2. The application filed on April 17, 2023, for approval to transfer Certificates of Public Convenience and Necessity (CPCN) PUC Nos. 55764 and 55904, subject to encumbrances, if any, against the authorities, from MTN Shuttle LLC, doing business as MTN Shuttle (Transferor), to Aspen / Snowmass Express LLC, doing business as Denver Airport Shuttle Express (Transferee), is granted, subject to full compliance with the requirements contained in this Order.

3. CPCN PUC Nos. 55764 and 55904 are set forth in the Appendix attached to this Decision.

4. To the extent that CPCN PUC Nos. 55764 and 55834 overlap and/or duplicate one another, only one authority shall be deemed to exist.

5. Transferee shall file an application to consolidate CPCN PUC Nos. 55764 and 55834 into one CPCN and to eliminate the overlaps and/or duplications therein.

6. Transferee shall not be granted CPCN PUC Nos. 55764 and 55904 and shall not commence operations under those certificates until the following conditions have been fully complied with:

- (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 an adoption notice that adopts as its own the currently effective tariff of Transferor;
- (d) file a Commission-prescribed acceptance of transfer form that is signed by both the Transferor and Transferee;
- (e) pay the applicable fee (\$5.00) for the issuance of the authorities;
- (f) register an authorized representative as a File Administrator on behalf of Transferee in the Commission's electronic filing system (E-Filings) and agree that Transferee shall receive notifications electronically through E-Filings. Information can be found at: www.dora.state.co.us/pls/efi/EFI.homepage; and,
- (g) receive notice in writing from the Commission that it is in compliance with the above requirements and may begin service.

7. Transferor shall file a terminating annual report from January 1, 2023 to the effective date of this Decision into this proceeding (No. 23A-0189CP-XFER).

8. If Transferor and Transferee do not comply with the requirements of this Order within 60 days of the effective date of this Decision, then the approval to transfer CPCN PUC Nos. 55764 and 55904 shall be void 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 the 60 days.

9. Transferee shall operate in accordance with all applicable statutes, orders, and rules of the Commission, including but not limited to, the rule on financial responsibility, updating the vehicle registry, and obtaining the periodic inspections of all vehicles. 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

10. 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.

11. This Decision is effective on its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
June 7, 2023.**

(S E A L)



ATTEST: A TRUE COPY

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

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TOM PLANT

Commissioners

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

Rebecca E. White,
Director

COMMISSIONER MEGAN M. GILMAN
ABSENT