

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 23A-0111CP-EXT

IN THE MATTER OF THE APPLICATION OF MOUNTAIN STAR TRANSPORTATION LLC DOING BUSINESS AS EXPLORER TOURS AND/OR RED ROCKS SHUTTLE TO EXTEND OPERATIONS UNDER CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY NO. 55952.

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

Mailed Date: April 18, 2023
Adopted Date: April 12, 2023

I. BY THE COMMISSION

A. Statement, Findings, and Conclusions

1. On March 6, 2023, Mountain Star Transportation LLC, doing business as Explorer Tours and/or Red Rocks Shuttle (Applicant), filed an application for permanent authority to extend operations under its Certificate of Public Convenience and Necessity (CPCN) PUC No. 55952.

2. CPCN PUC No. 55952 currently authorizes the following:

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.¹

3. In the application, Applicant requests permanent authority to extend operations under CPCN No. 55952 in order to provide call-and-demand shuttle service between all points in Denver County, on the one hand, and all points in Jefferson County, on the other hand.

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

5. On March 13, 2023, Golden West Airport Shuttle, LLC (Intervenor) filed an intervention in opposition to the application.

6. On March 15, 2023, Applicant filed an Amendment to the application and revised the proposed authority to read as follows:

For authority to operate as a common carrier by motor vehicle for hire for the transportation of passengers in call-and-demand shuttle service between all points in Denver County, on the one hand, and Red Rocks Park and Amphitheatre, on the other hand with restriction from providing shuttle service to and from Denver International Airport.

7. On March 20, 2023, Intervenor filed an Acceptance of Amended Application and Withdrawal of Notice of Intervention. Intervenor confirms that it accepts the amended application, “**subject to the restriction** that shuttle service to and from Denver International Airport will **not** be provided.”

8. We find that the amendment is restrictive in nature, clear and understandable, and administratively enforceable, and therefore, conclude that good cause exists to accept the revised proposed authority.

¹ Item (II) is restricted against the transportation of passengers in vehicles with a manufacturer’s rated passenger capacity of less than nine passengers, including the driver.

9. Consequently, the intervention is deemed withdrawn; and thus, the proceeding is uncontested. Under § 40-6-109(5), C.R.S., this matter may be determined without a hearing.

10. Pursuant to Rule 6203(a) of the Rules Regulating Transportation by Motor Vehicle, 4 *Code of Colorado Regulations* 723-6, the information submitted with this application, as amended, warrants the granting of the requested extension to CPCN PUC No. 55952.

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

12. Applicant is fit to perform the service as requested.

13. This amended application for permanent authority to extend operations is in the public interest.

14. Applicant is granted, subject to conditions, an extension of authority under CPCN PUC No. 55952 as set forth in Appendix A attached to this Decision, conditioned upon Applicant's full compliance with the requirements contained in this Decision.

15. If Applicant fails to comply with the prerequisites required by Ordering Paragraph No. 4 within 60 days of the effective date of the Decision, the requested extension of authority under CPCN PUC No. 55952 will be deemed denied and Applicant will not be granted the requested permanent authority; the extended CPCN shall not be issued; and Applicant shall not be permitted to operate under the requested authority. No further action of the Commission is required.

16. For good cause shown, the Commission may grant additional time for compliance with Ordering Paragraph No. 4 if the request for additional time is filed within 60 days of the effective date of this Decision.

17. The Commission will notify Applicant in writing when the Commission's records demonstrate Applicant has fully complied with the requirements of Ordering Paragraph No. 4. Applicant shall not begin the extended 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 April 12, 2023.

2. Consistent with the discussion above, the Amendment to the application is accepted; the Notice of Intervention filed by Golden West Airport Shuttle, LLC is withdrawn; and the amended application is granted, subject to the following conditions.

3. The issuance of an extension of authority under Certificate of Public Convenience and Necessity (CPCN) PUC No. 55952 as set forth in Appendix A attached to this Decision is granted to Mountain Star Transportation LLC, doing business as Explorer Tours and/or Red Rocks Shuttle (Applicant), subject to Applicant's full compliance with the requirements contained in Ordering Paragraph No. 4.

4. Applicant shall not be granted the extension of authority under CPCN PUC No. 55952 and shall not commence the extended 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 (and time schedule if applicable), which includes the extended authority. 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 a proposed effective date. 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 proposed effective date;
- (d) register an authorized representative as a File Administrator on behalf of Applicant in the Commission's electronic filing system (E-Filings) and agree that Applicant shall receive notifications electronically through E-Filings. Information can be found at:
www.dora.state.co.us/pls/efi/EFI.homepage; and
- (e) pay the applicable fee (\$5.00) for the issuance of the extended authority.

5. The extension of authority under CPCN PUC No. 55952 shall not be issued and Applicant shall not operate under the extended authority unless Applicant complies with all of the conditions in Ordering Paragraph No. 4.

6. If Applicant does not comply with each requirement in Ordering Paragraph No. 4, within 60 days of the effective date of this Decision, the extension of authority under CPCN PUC No. 55952 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.

7. Applicant shall continue to 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.

8. 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.

9. This Decision is effective on its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
April 12, 2023.**

(S E A L)



THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

ERIC BLANK

MEGAN M. GILMAN

TOM PLANT

Commissioners

ATTEST: A TRUE COPY

A handwritten signature in cursive script, appearing to read "G. Harris Adams".

G. Harris Adams,
Interim Director