

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO**

PROCEEDING NO. 22A-0335CP

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IN THE MATTER OF THE APPLICATION OF TIPSY VELO LLC, DOING BUSINESS AS TIPSY VOYAGE, FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE AS A COMMON CARRIER BY MOTOR VEHICLE FOR HIRE.

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**INTERIM DECISION OF  
ADMINISTRATIVE LAW JUDGE  
AVIV SEGEV  
CONSTRUING FILINGS AS A MOTION TO  
RESTRICTIVELY AMEND APPLICATION AND  
CONDITIONALLY WITHDRAW INTERVENTION,  
DENYING MOTION FOR SANCTIONS, GRANTING  
CONDITIONAL MOTIONS TO WITHDRAW  
INTERVENTIONS, GRANTING MOTIONS TO AMEND  
APPLICATION WITH MODIFICATIONS, AND  
GRANTING MOTION FOR EXTENSION OF TIME**

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Mailed Date: April 21, 2023

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**I. STATEMENT**

**A. Procedural Background**

1. On July 21, 2022, Topsy Velo, LLC, doing business as Topsy Voyage (Applicant) filed its Permanent Authority Application (Application) for a Certificate of Public Convenience and Necessity (CPCN) to operate as a common carrier by motor vehicle for hire. This filing commenced Proceeding No. 22A-0335CP.

2. On July 25, 2022, the Commission issued a Notice of Applications and Petitions Filed (Notice). The Notice gave notice of the Application and indicated that Applicant was seeking a Commission decision within 250 days for the following requested authority:

... to operate as a common carrier by motor vehicle for hire for the transportation of passengers: (1) in call-and-demand charter service between all points in the area comprised of the Counties of Mesa and Delta, State of Colorado; (2) in call-and-demand shuttle service between all points in the area comprised of the Counties of Mesa and Delta, State of Colorado; (3) in call-and-demand sightseeing service between all points in the area comprised of the Counties of Mesa and Delta, State of Colorado. This application is restricted: (a) Item (2) is restricted against service to or from the Powderhorn Ski Area, located in Mesa County, Colorado; (b) Item (3) is restricted to sightseeing service that originates and terminates at the same point.

3. On August 22, 2022, Pali-Tours Ltd (Pali-Tours) timely noticed its intervention of right.

4. On August 23, 2022, Rapid Creek Cycles & Sports, LLC, doing business as Palisade Plunge Cycle and Shuttle (Palisade Plunge) timely noticed its intervention of right by filing its Notice of Intervention by Right and Alternative Petition for Intervention and Entry of Appearance of Rapid Creek Cycles & Sports, LLC, and Request for a Hearing (Palisade Plunge's Notice of Intervention). In Palisade Plunge's Notice of Intervention, Palisade Plunge states that it owns CPCN PUC No. 55955, which grants Palisade Plunge the following authority:

... to provide transportation of passengers, in call . [*sic*] and-demand shuttle service between all points within a 29-mile radius of 239 Main Street, Palisade, Colorado.RESTRICTION: [*sic*] Restricted to originating service at 239 Main Street, Palisade, Colorado, and terminating service at the following locations: (1) Powderhorn Mountain Resort, 48388 Powderhorn Road, Mesa, Colorado 81643; (2) Mesa Lakes Resort / West Bench Trailhead, 3619 CO-65, Mesa, Colorado 81643; (3) Land’s [*sic*] End Observatory; (4) Mesa Top Trailhead; (5) County Line Trailhead; or (6) Wild Rose Picnic Area on Lands End Road.

5. On August 24, 2022, Colorado Detours LLC d/b/a Western Colorado Wine Tour (Colorado Detours) timely noticed its intervention of right.

6. On August 31, 2022, the Commission, by minute entry, deemed the Application complete and referred Proceeding No. 22A-0335CP to an Administrative Law Judge (ALJ) for disposition.

7. By Decision No. R22-0824-I, the ALJ, among other things, established procedures and scheduled an evidentiary hearing on March 16-17, 2023.

8. By Decision No. R23-0082-I, issued February 7, 2023, the Application was amended to request authority as follows:

For authority to operate as a common carrier by motor vehicle for hire for the transportation of passengers:

1. In call-and-demand charter service between all points in the area comprised of the counties of Mesa and Delta, State of Colorado;
2. In call-and-demand shuttle service between all points in the area comprised of the counties of Mesa and Delta, State of Colorado;
3. In call-and-demand sightseeing service between all points in the area comprised of the counties of Mesa and Delta, State of Colorado. RESTRICTIONS:
  1. Item (2) is restricted against service to or from the Powderhorn Ski Area, located in Mesa County, Colorado;
  2. Item (3) is restricted to sightseeing service that originates and terminates at the same point.
  3. Items (1), (2) and (3) are restricted to traffic that either originates or terminates at a vineyard, winery, bar, restaurant that serves wine, or place of lodging.

9. By Decision No. R23-0177-I, issued on March 14, 2023, Pali-Tours was compelled to respond to Applicant's discovery request within ten calendar days of the issuance of the Decision No. R23-0177-I. Further, the parties were ordered to confer regarding the rescheduling of the evidentiary hearing, and for Applicant to file a conferral report within ten calendar days of the issuance of the Decision No. R23-0177-I.

10. On March 21, 2023, Applicant filed a document entitled<sup>1</sup> Stipulation of Parties Motion to Restrictively Amend Application (Applicant's Stipulation and Motion to Amend). Applicant's Motion to Amend seeks to further amend its requested authority to operate as a common carrier as follows:

1. In call-and-demand charter service between all points in the area comprised of the counties of Mesa and Delta, State of Colorado;
  2. In call-and-demand shuttle service between all points in the area comprised of the counties of Mesa and Delta, State of Colorado;
  3. In call-and-demand sightseeing service between all points in the area comprised of the counties of Mesa and Delta, State of Colorado.
- RESTRICTIONS: 1. From offering call and demand shuttle service to the following locations:
- (1) Powderhorn Mountain Resort, 48388 Powderhorn Road, Mesa, Colorado 81643;
  - (2) Mesa Lakes Resort / West Bench Trailhead, 3619 CO-65, Mesa, Colorado 81643;
  - (3) Land's *[sic]* End Observatory;
  - (4) Mesa Top Trailhead; CO-65, Mesa Colorado
  - (5) County Line Trailhead; CO-65, Mesa *[sic]*, Colorado
  - (6) Wild Rose Picnic Area on Lands End Road; or
  - (7) Shirttail Trailhead and parking lot.

11. Also on March 21, 2023, Applicant filed its Notice, in which Applicant waived the statutory period for a Commission decision.

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<sup>1</sup> While the formatting of this filing is flawed, the document's title can nonetheless be discerned from the location of the title within the document and the capitalization of the same.

12. On March 24, 2023, Intervenor's (I) Motion to Dismiss the Application; (II) Alternate Motion for Withdrawal of Intervention Pending Approval of Applicant's (Additional) Restrictive Amendments; or (III) Alternate Motion for Enlargement of Time to Respond to Remaining Discovery Requests (Pali-Tours' Motion for Conditional Withdrawal of its Intervention) was filed by Pali-Tours. Pali-Tours' Motion for Conditional Withdrawal of its Intervention was signed by Pali Tours' owner, Dave Smith.

13. Also on March 24, 2023, Applicant's Motion for Extension of Time to File the Report Required by Decision No R23-0177-I (Applicant's Motion for Extension of Time) was filed by Applicant.

14. On March 28, 2023, the Stipulation of Parties Joint Motion to Restrictively Amend Application and to Withdraw Intervention (Applicant's and Colorado Detours' Stipulation and Motion to Amend) was filed by Applicant and Colorado Detours. Applicant's and Colorado Detours' Stipulation and Motion to Amend seeks to amend Applicant's requested authority as follows:

1. In call-and-demand charter service between all points in the area comprised of the counties of Mesa and Delta, State of Colorado;
2. In call-and-demand shuttle service between all points in the area comprised of the counties of Mesa and Delta, State of Colorado;
3. In call-and-demand sightseeing service between all points in the area comprised of the counties of Mesa and Delta, State of Colorado.

RESTRICTIONS:

1. Item (2) is restricted against service to or from the Powderhorn Ski Area, located in Mesa County, Colorado;
2. Item (3) is restricted to sightseeing service that originates and terminates at the same point.
3. Items (1), (2) and (3) are restricted to traffic that either originates or terminates at a vineyard, winery, bar, restaurant that serves wine, or place of lodging.
4. Items (1), (2) and (3) are restricted against service that originates and terminates in the County of Delta, State of Colorado [*sic*]

15. On April 6, 2023, Applicant’s Response in Opposition to Multiple Motions filed by Pali Tours, Ltd and for Additional Relief (Applicant’s Response to Pali-Tours and Motion to Strike) was filed by Applicant.

16. On April 18, 2023, Stipulation of Parties Motion to Restrictively Amend Application and to Withdraw Intervention was filed by Applicant and Palisade Plunge (Applicant’s and Palisade Plunge’s Stipulation and Motion to Amend). Applicant’s and Palisade Plunge’s Stipulation and Motion to Amend seeks to amend Applicant’s requested authority as follows:

1. In call-and-demand charter service between all points in the area comprised of the counties of Mesa and Delta, State of Colorado;
2. In call-and-demand shuttle service between all points in the area comprised of the counties of Mesa and Delta, State of Colorado;
3. In call-and-demand sightseeing service between all points in the area comprised of the counties of Mesa and Delta, State of Colorado.

RESTRICTIONS:

1. Item (2) is restricted against service to or from the Powderhorn Ski Area, located in Mesa County, Colorado;
2. Item (3) is restricted to sightseeing service that originates and terminates at the same point.
3. Items (1), (2) and (3) are restricted to traffic that either originates or terminates at a vineyard, winery, bar, restaurant that serves wine, or place of lodging.
4. Item (2) is restricted against service originating within 100 yards of 239 Main Street, Palisade, Colorado and terminating at the following locations: (1) Mesa Lakes Resort / West Bench Trailhead, 3619 CO-65, Mesa, Colorado 81643; (2) Land’s *[sic]* End Observatory; (3) Mesa Top Trailhead; (4) County Line Trailhead; (5) Wild Rose Picnic Area on Lands End Road; (6) Shirttail Trailhead and Parking Lot; all located in Mesa County, Colorado.

17. On April 20, 2023, Pali-Tours filed its Response in Agreement with Motion to Restrictively Amend (Pali-Tours’ Second Motion for Conditional Withdrawal of its Intervention).

**B. Applicant's Stipulation and Motion to Amend and Applicant's and Palisade Plunge's Stipulation and Motion to Amend**

18. Applicant's Stipulation and Motion to Amend sets forth the authority requested by Applicant, but does not otherwise delineate a particular request, or reference any party other than Applicant. However, Applicant's use of the terms "stipulation"<sup>2</sup> and "restrictively amend"<sup>3</sup> suggests that Applicant's Stipulation and Motion to Amend was done in concert with, and for the benefit of, at least one of the intervenors in this Proceeding. In addition, the restrictions that is set forth in Applicant's Stipulation and Motion to Amend identically mirrors the locations which Palisade Plunge is restricted to servicing pursuant to CPCN PUC No. 55955<sup>4</sup>, as well as the restrictions subsequently set forth in Applicant's and Palisade Plunge's Stipulation and Motion to Amend.<sup>5</sup>

19. In Applicant's and Palisade Plunge's Stipulation and Motion to Amend, Applicant and Palisade Plunge request to amend the Application<sup>6</sup>, and, upon a finding by the Commission that the requested amendments are administratively acceptable, have Palisade Plunge's intervention be withdrawn.

20. Based on the foregoing, Applicant's Stipulation and Motion to Amend and Applicant's and Palisade Plunge's Stipulation and Motion to Amend will be construed, together, as Applicant's and Palisade Plunge's stipulation, joint motion to restrictively amend the Application, and conditionally withdraw Palisade Plunge's intervention (hereinafter, Applicant's and Palisade Plunge's Stipulation and Motion to Amend).

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<sup>2</sup> Suggesting that Applicant's Stipulation and Motion to Amend contemplates a party other than Applicant.

<sup>3</sup> Presumably for the benefit of another party.

<sup>4</sup> See Palisade Plunge's Notice of Intervention at 1-2.

<sup>5</sup> See Applicant's and Palisade Plunge's Stipulation and Motion to Amend at 3.

<sup>6</sup> See *id.* and ¶ 16 of this Interim Decision.

21. As construed herein, Applicant's and Palisade Plunge's Stipulation, Motion to Amend, and Motion to Conditionally Withdraw Intervention seeks to further restrict Applicant's requested authority for call and demand shuttle service from servicing six<sup>7</sup> additional geographical locations in Mesa County, Colorado. As such, the authority requested in Applicant's and Palisade Plunge's Stipulation and Motion to Amend is deemed restrictive in nature, clear and understandable, administratively enforceable, and contained wholly within the scope of the authority sought in the Application, as noticed.

22. Based on the foregoing, Applicant's and Palisade Plunge's Stipulation and Motion to Amend will be granted, in part, as to Palisade Plunge's request to withdraw its intervention.

**C. Pali-Tours' Motion for Conditional Withdrawal of its Intervention, Applicant's Response to Pali-Tours and Motion to Strike, and Pali-Tours' Second Motion for Conditional Withdrawal of its Intervention**

23. In Pali-Tours' Motion for Conditional Withdrawal of its Intervention, Pali-Tours advances three main contentions. First, Pali-Tours argues that this matter should be dismissed because Applicant did not confer with Pali-Tours in the ten calendar days that preceded the filing of Pali-Tours' Motion for Conditional Withdrawal of its Intervention and cannot therefore submit a conferral report, as was required by Decision No. R23-0177-I.<sup>8</sup> Second, to the extent Applicant's Stipulation and Motion to Amend is deemed clear and enforceable by the Commission, Pali-Tours alternatively seeks to withdraw as an intervenor in this matter.<sup>9</sup> Third, to the extent Applicant's

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<sup>7</sup> While the Applicant's Stipulation and Motion to Amend lists seven restricted geographical locations, the first restriction ("Powderhorn Mountain Resort, 48388 Powderhorn Road, Mesa, Colorado 81643") is cumulative of the first restriction in Applicant's requested authority in the Application, as modified by Decision No. R23-0082-I ("Item (2) is restricted against service to or from the Powderhorn Ski Area, located in Mesa County, Colorado"). This cumulative item was removed from the requested authority later set forth in Applicant's and Palisade Plunge's Stipulation and Motion to Amend.

<sup>8</sup> See Pali-Tours' Motion for conditional Withdrawal of Intervention at 1-2.

<sup>9</sup> See *id.* at 2-4.

requested authority is not deemed clear and enforceable by the Commission, Pali-Tours alternatively seeks to be granted additional time to respond to Applicant's discovery request as compelled by Decision No. R23-0177-I.<sup>10</sup>

24. In Applicant's Response to Pali-Tours and Motion to Strike, Applicant advances three primary counterarguments to Pali-Tours' three motions and submits a motion for sanctions against Pali-Tours. First, Applicant argues that Pali-Tours' request to dismiss this matter is improper because it is based on an incorrect time computation and does not account Applicant's timely-filed motion for extension of time.<sup>11</sup> Second, Applicant argues that Pali-Tours' unilateral request to amend Applicant's requested authority should be denied because the restrictions set forth in Pali-Tours' Motion for Conditional Withdrawal of its Intervention are vague and unenforceable.<sup>12</sup> Third, Applicant argues that Pali-Tours' requested extension of time to produce discovery responses, as compelled by Decision No. R23-0177-I, should be denied. As grounds for its request to deny Pali-Tours' request for extension of time, Applicant argues that Pali-Tours' request for extension of time is based on weak or unfounded justifications and asserts that Pali-Tours still<sup>13</sup> has not responded to Applicant's discovery responses compelled by Decision No. R23-0177-I.<sup>14</sup> Applicant also argues that Pali-Tours' Motion for Conditional Withdrawal of its Intervention violates Colo. R. Civ. Pro. 11 and Rule 1202(e), 4 *Code of Colorado Regulations* (CCR) 723-1 because Pali-Tours motions are "spurious" and Pali-Tours is acting in "bad faith."<sup>15</sup>

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<sup>10</sup> See *id.* at 4-5.

<sup>11</sup> See Applicant's Response to Pali-Tours' Motion for Conditional Withdrawal of Intervention at 1.

<sup>12</sup> *Id.* at 2.

<sup>13</sup> *I.e.*, as of the time of filing of Applicant's Response to Pali-Tours' Motion for Conditional Withdrawal of Intervention.

<sup>14</sup> See Applicant's Response to Pali-Tours' Motion for Conditional Withdrawal of Intervention at 2.

<sup>15</sup> See *id.* at 3.

On these grounds, Applicant submits a motion for assessment attorney fees and costs against Pali-Tours and the striking of Applicant's intervention.

25. In Pali-Tours' Second Motion for Conditional Withdrawal of its Intervention, Pali-Tours reiterates<sup>16</sup> its request to withdraw its intervention upon the Commission's finding that Applicant's requested Authority, as set forth in Applicant's and Palisade Plunge's Stipulation and Motion to Amend, is administratively acceptable.<sup>17</sup>

26. The ALJ finds that the dismissal of Pali-Tours' Application due to Applicant's failure to submit a conferral report is not an appropriate remedy under the present circumstances. In addition, Applicant filed a timely motion for extension of time to address this matter, and it is apparent that Applicant is attempting to settle this matter. Moreover, the order to confer in Decision No. R23-0177-I was directed at all "parties," and not only at Applicant. Based on the foregoing, Pali-Tours' motion to dismiss this matter will be denied, as ordered below.

27. As discussed above, Applicant's Stipulation and Motion to Amend, as combined and construed herein, is deemed restrictive in nature, clear and understandable, administratively enforceable, and contained wholly within the scope of the authority sought in the Application, as noticed. Consistent with these findings, Pali-Tours' requests to conditionally withdraw its intervention, as set forth in Pali-Tours' Motion for Conditional Withdrawal of its Intervention and

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<sup>16</sup> Applicant's Stipulation and Motion to Amend inadvertently omitted three of the restrictions to Applicant's requested authority and did not include a claim for relief. Pali-Tours' Motion for Conditional Withdrawal of its Intervention was filed after Applicant's Stipulation and Motion to Amend, but before Applicant's and Palisade Plunge's Stipulation and Motion to Amend. The omitted restrictions and a claim for relief were subsequently included in Applicant's and Palisade Plunge's Stipulation and Motion to Amend. Therefore, Pali-Tours' reiteration made in Pali-Tours' Second Motion for Conditional Withdrawal of its Intervention is acknowledged and appreciated by the undersigned ALJ.

<sup>17</sup> See Pali-Tours' Second Motion for Conditional Withdrawal of its Intervention at 1.

Pali-Tours' Second Motion for Conditional Withdrawal of its Intervention will be granted, as ordered below.

28. Because Pali-Tours' first became aware of Applicant's discovery requests on or about January 30, 2023<sup>18</sup> and Decision No. R23-0177-I was issued on March 24, 2023, the ALJ has serious concerns about Pali-Tours' inability, and/or reluctance, to respond to Applicant discovery requests, as ordered in Decision No. R23-0177-I. However, given the granting of Pali-Tours' request to conditionally withdraw its intervention herein, Pali-Tours' alternative request to be granted additional time to respond to Applicant's discovery request, as compelled by Decision No. R23-0177-I, may be moot.

29. According to Rule 1202(e), 4 CCR 723-1, the "... signature of... a party [on a pleading] certifies... that to the best of the signatory's knowledge, information, and belief there are good grounds to support it; and that it is not interposed for any improper purpose, such as to harass, delay, or increase the cost of the litigation."

30. Pali-Tours is not represented by legal counsel. Notwithstanding how versed Pali-Tours' owner may be in Commission Rules of Practice and Procedure, it is not clear from the record whether Pali-Tours' Motion for Conditional Withdrawal of its Intervention was signed without good grounds to support it, or for the purpose of harassing, delaying, or increasing the cost of the litigation. Therefore, Applicant's motion for assessment of attorney fees and costs and to strike Pali-Tours' intervention, will be denied, as ordered below.

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<sup>18</sup> See First Set of Discovery from Applicant Topsy Velo, LLC, D/B/A Topsy Voyage, attached as Exhibit 1 to Applicant's Motion to Compel Pali-Tours, Ltd to Respond to Discovery and for Other Relief.

**D. Applicant's and Colorado Detours' Stipulation and Motion to Amend**

31. In Applicant's and Colorado Detours' Stipulation and Motion to Amend, Applicant and Colorado Detours seek to restrictively amend Applicant's requested CPCN authority and, upon the Commission's approval of the amended requested authority, withdraw Colorado Detours' intervention.<sup>19</sup>

32. As compared with Applicant's requested authority that is as set forth in Decision No. R23-0082-I, Applicant's and Colorado Detours' Stipulation and Motion to Amend seeks only to add a fourth restriction on Applicant's requested authority.<sup>20</sup> This added restriction further restricts Applicant from providing call-and-demand charter, shuttle, and sightseeing service that originates and terminates in Delta County, Colorado.<sup>21</sup> Therefore, the authority sought by Applicant in Applicant's and Colorado Detours' Stipulation and Motion to Amend is restrictive in nature, clear and understandable, administratively enforceable, and contained wholly within the scope of authority sought in the Application, as noticed.

33. On these grounds, Applicant's and Colorado Detours' Stipulation and Motion to Amend will be granted, as ordered below.

**E. Applicant's Construed Requested Authority**

34. Consistent with the discussion above, and accounting for the substance and timing of Applicant's filings in this Proceeding, the ALJ finds that Applicant's requested amendments to the restrictions, as set forth in Applicant's and Palisade Plunge's Stipulation and Motion to Amend

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<sup>19</sup> See Applicant's and Colorado Detours' Stipulation and Motion to Amend at 3-5.

<sup>20</sup> Compare Decision R23-0082-I at 4 with Applicant's and Colorado Detours' Stipulation and Motion to Amend at 3-4.

<sup>21</sup> Applicant's and Colorado Detours' Stipulation and Motion to Amend at 4.

and Applicant's and Colorado Detours' Stipulation and Motion to Amend are restrictive in nature, clear and understandable, administratively enforceable, and contained wholly within the scope of authority sought in the Application, as noticed.

35. Because Applicant's and Palisade Plunge's Stipulation and Motion to Amend and Applicant's and Colorado Detours' Stipulation and Motion to Amend are restrictive in nature, clear and understandable, administratively enforceable, Palisade Plunge's and Pali-Tours respective motions to conditionally withdraw their applications will be granted, as ordered below.

36. Applicant's requested authority will be modified to incorporate the amendments requested in Applicant's and Palisade Plunge's Stipulation and Motion to Amend and Applicant's and Colorado Detours' Stipulation and Motion to Amend, as ordered below.

**F. Applicant's Motion for Extension of Time**

37. In the Motion for Extension of Time, Applicant seeks additional time to confer with the parties and submit a conferral report as ordered in Decision No. R23-0177-I.

38. Applicant's Motion for Extension of Time was timely-filed.

39. Given Applicant's attempts to settle this matter, Applicant's waiver of the applicable statutory period for a Commission decision in this Proceeding, the modifications of the Applicant's requested authority ordered below, and the dismissal of the interventions ordered below, the ALJ finds that Applicant's request for extension of time to comply with Decision No. R23-0177-I is appropriate and will be granted, as ordered below.

## II. ORDER

### A. **It Is Ordered That:**

1. The Stipulation of Parties Motion to Restrictively Amend Application, and the Stipulation of Parties Motion to Restrictively Amend Application and to Withdraw Intervention, filed by Topsy Velo, LLC, doing business as Topsy Voyage (Applicant) on March 21, 2023 and April 18, 2023, respectively, are construed, together, as Applicant's and Rapid Creek Cycles & Sports, LLC, doing business as Palisade Plunge Cycle and Shuttle's (Palisade Plunge) joint motion to restrictively amend the Application and conditionally withdraw Palisade Plunge's intervention (Applicant's and Palisade Plunge's Stipulation and Motion to Amend).

2. Applicant's and Palisade Plunge's Stipulation and Motion to Amend is granted, in part, as to Palisade Plunge's request to conditionally withdraw its intervention.

3. Pali-Tours Ltd's (Pali-Tours) motions to dismiss this matter as requested in its (I) Motion to Dismiss the Application; (II) Alternate Motion for Withdrawal of Intervention Pending Approval of Applicant's (Additional) Restrictive Amendments; or (III) Alternate Motion for Enlargement of Time to Respond to Remaining Discovery Requests, and its Response in Agreement with Motion to Restrictively Amend, filed on March 24, 2023 and April 20, 2023, respectively (together, Pali-Tours' Motion for Conditional Withdrawal of its Intervention), is granted in part, only as to Pali-Tours' request to conditionally withdraw its intervention.

4. All other requests made in Pali-Tours' Motion for Conditional Withdrawal of its Intervention are denied.

5. Applicant's motions for assessment of attorney fees and costs and to strike Pali-Tours' intervention, as set forth in Applicant's Response to Pali-Tours and Motion to Strike, are denied.

6. The Stipulation of Parties Joint Motion to Restrictively Amend Application and to Withdraw Intervention (Applicant’s and Colorado Detours’ Stipulation and Motion to Amend), filed by Applicant on March 28, 2023, is granted in part, as Colorado Detours LLC d/b/a Western Colorado Wine Tour’s (Colorado Detours) request to conditionally withdraw its intervention.

7. Consistent with the discussion above, the Application is now amended to request authority as follows:

1. In call-and-demand charter service between all points in the area comprised of the counties of Mesa and Delta, State of Colorado;
2. In call-and-demand shuttle service between all points in the area comprised of the counties of Mesa and Delta, State of Colorado;
3. In call-and-demand sightseeing service between all points in the area comprised of the counties of Mesa and Delta, State of Colorado.

RESTRICTIONS:

1. Item (2) is restricted against service to or from the following locations in Mesa County, Colorado: (a) Powderhorn Ski Area; (b) Mesa Lakes Resort / West Bench Trailhead, 3619 CO-65, Mesa, Colorado 81643; (c) Lands End Observatory; (d) Mesa Top Trailhead, CO-65; (e) County Line Trailhead, CO-65; (f) Wild Rose Picnic Area on Lands End Road; and (g) Shirttail Trailhead and parking lot.
  2. Item (3) is restricted to sightseeing service that originates and terminates at the same point.
  3. Items (1), (2) and (3) are restricted to traffic that either originates or terminates at a vineyard, winery, bar, restaurant that serves wine, or place of lodging.
  4. Items (1), (2) and (3) are restricted against service that originates and terminates in the County of Delta, State of Colorado.
8. Palisade Plunge’s intervention is dismissed.
  9. Pali-Tours’ intervention is dismissed.
  10. Colorado Detours’ intervention is dismissed.
  11. Should any party oppose the manner in which the undersigned ALJ has construed and/or combined Applicant’s multiple pending requests for the amendment of its requested authority, such party must file a request for relief as to the same within ten days of the effective

date of this decision. Any such filing will void Ordering Paragraphs 8, 9, and 10, pending further decision by the ALJ.

12. Applicant’s Motion for Extension of time to File the Report Required by Decision No R23-0177-I, filed by Applicant on March 24, 2023, is granted.

13. The parties shall confer regarding their proposed alternative dates for the evidentiary hearing, the location of the evidentiary hearing, and the method by which the evidentiary hearing should be conducted.

14. Within 20 calendar days of the effective date of this Interim Decision, Applicant shall file a report of the results of the parties’ conferral ordered herein.

15. This Decision shall be effective immediately.

(S E A L)



THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF COLORADO

AVIV SEGEV

Administrative Law Judge

ATTEST: A TRUE COPY

A handwritten signature in black ink, appearing to read "G. Harris Adams".

G. Harris Adams,  
Interim Director