

Decision No. C24-0322

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 23A-0549BP-TA

IN THE MATTER OF THE APPLICATION OF PURGATORY RECREATION I, LLC DOING BUSINESS AS MOUNTAIN TRANSPORT FOR TEMPORARY AUTHORITY TO OPERATE AS A CONTRACT CARRIER BY MOTOR VEHICLE FOR HIRE.

**COMMISSION DECISION GRANTING MOTION TO
EXTEND TEMPORARY AUTHORITY**

Mailed Date: May 9, 2024

Adopted Date: May 8, 2024

I. BY THE COMMISSION

A. Statement

1. On April 30, 2024, Purgatory Recreation I, LLC d/b/a Mountain Transport (Mountain Transport) filed a Motion to Extend Temporary Authority (Motion) requesting extension of the temporary authority issued in Decision No. C23-0764 to operate as a contract carrier by motor vehicle for hire, to serve residents of Durango Mountain Master's Association and their guests. Through the Motion, Mountain Transport states it has been operating under this temporary authority all winter, providing contract-carrier service between Durango Mountain Master's Association homes and Purgatory Resort. Mountain Transport indicates that, pursuant to § 40-10.1-204, C.R.S., the temporary authority will expire on May 13, 2024, and therefore requests extension until a final administrative decision is rendered on its application for permanent authority. By this Decision, the Commission finds good cause to extend the temporary authority granted by Decision No. C23-0764 until a final administrative decision is rendered in Proceeding No. 24A-0207BP.

B. Discussion

2. Mountain Transport states, pursuant to § 40-10.1-204, C.R.S., the Commission may extend a grant of temporary authority until a final administrative decision is rendered, for good cause shown. Mountain Transport states, where the Commission finds the initial application satisfies the statutory requirements of “immediate and urgent need,” and there being no other carrier service “capable of meeting that need,” the original grant of authority satisfies the evidentiary support for extending it. Motion at ¶ 8, *citing Gambler’s Express v. Public Utilities Commission*, 868 P.2d 405, 412 (Colo. 1994). Mountain Transport maintains a movant need only establish “good cause,” which includes a continuation of the temporary services pending the Commission’s “final administrative decision” on an application for permanent authority to conduct transportation services by motor vehicle for the same services. Motion at ¶ 8, *citing id.* at 408.

3. Mountain Transport indicates that it continues to be the only carrier serving this community. It states the Commission found an immediate and urgent need for the temporary authority, that it has and continues to provide service under that authority, and that a failure to grant the extension would harm the traveling public. Mountain Transport requests the Commission extend its temporary authority until a final administrative decision on its application for permanent authority. Mountain Transport states there were no intervenors or protestors to the temporary authority application and, given the lack of other carriers in the area, no intervenors are expected to challenge the permanent authority application.

C. Findings and Conclusions

4. Section 40-10.1-204(1), C.R.S., authorizes the Commission to extend temporary authority beyond the initial 180-day grant of such authority. Such an extension may, upon good

cause shown, be granted until the corresponding permanent authority application is final. In construing the “good cause” standard in this statute, the Commission has previously focused on whether members of the traveling public are using the temporary service provided and, if so, would likely be inconvenienced by a discontinuance of that service. The Commission has also acknowledged the 180-day period authorized by the statute may not always provide sufficient time to finalize the corresponding permanent application.

5. At the outset, we note this is a highly unusual circumstance in that Mountain Transport delayed the filing of its permanent authority application until May 7, 2024, such that it must now request a prolonged extension. This is unfortunate. Issuance of temporary authority under § 40-10.1-204, C.R.S., is an extraordinary remedy intended to serve the public interest by providing a mechanism for carriers to provide needed service while their permanent authority application is adjudicated. It is generally expected these processes run concurrently. The 180-day temporary authority time period in statute is intended to approximate the time needed to complete that adjudicatory process. Yet here, Mountain Transport did not use this time to meaningfully progress with its application for permanent authority.

6. Despite these concerns with Mountain Transport’s delay in filing for permanent authority, we find the public interest weighs in favor of granting the requested relief. In this circumstance, we can identify no potential harm that outweighs the benefit of allowing continuity in the provision of transportation service for this community. Mountain Transport indicates no protests were filed to the temporary authority application and, given the lack of other carriers in the area, that no intervenors are expected to challenge its request for permanent authority. In the initial temporary authority application, Mountain Transport provided a letter of support indicating

its transportation service is needed to safely shuttle homeowners and their guests to and from Purgatory Resort and that no other shuttle or bus service is available. For these reasons, the Commission finds Mountain Transport has shown good cause to extend the temporary authority granted by Decision No. C23-0764 until a final administrative decision is rendered in the proceeding to consider Mountain Transport's application for permanent authority.

II. ORDER

A. The Commission Orders That:

1. The temporary authority granted to Purgatory Recreation I, LLC d/b/a Mountain Transport (Mountain Transport) by Decision No. C23-0764 is extended until a final administrative decision is rendered in Proceeding No. 24A-0207BP.

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 this Decision.

3. This Decision is effective upon its mailed date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
May 8, 2024.**

(S E A L)



ATTEST: A TRUE COPY

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

Rebecca E. White,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

ERIC BLANK

MEGAN M. GILMAN

TOM PLANT

Commissioners