

Decision No. R24-0029-I

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 23A-0552CP-EXT

IN THE MATTER OF THE APPLICATION OF 303 PARTY BUS LLC FOR AUTHORITY TO EXTEND OPERATIONS UNDER CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY NO. 55846.

**INTERIM DECISION OF
ADMINISTRATIVE LAW JUDGE
CONOR F. FARLEY
SCHEDULING HEARING, ESTABLISHING PROCEDURAL
SCHEDULE, AND PROVIDING FURTHER
INSTRUCTIONS**

Mailed Date: January 11, 2024

I. STATEMENT

A. Background

1. On November 3, 2023, 303 Party Bus LLC (303 Party Bus) filed the application described in the caption above (Application).

2. On November 6, 2023, 303 Party Bus filed an Amendment to the Application (Amended Application).

3. On November 13, 2023, the Commission issued public notice of the authority sought by 303 Party Bus in the Amended Application as follows:

Currently, CPCN No. 55846 authorizes the following:

Transportation of passengers in call-and-demand shuttle and charter service between 6232 Beach Street, Denver, Colorado and the following venues: Red Rocks Amphitheater, 18300 West Alameda Parkway, Golden, Colorado 80401; 1st Bank Center, 11450 Broomfield Lane, Broomfield, Colorado 80021; Sports Authority at Mile High Stadium, 1701 Bryant Street, Denver, Colorado 80204; Coors Field, 2001 Blake

Street, Denver Colorado 80205; Ogden Theater, 935 East Colfax Avenue, Denver, Colorado 80218; Fiddlers Green, 6230 Greenwood Plaza Boulevard, Englewood, Colorado 80111; Pepsi Center, 1000 Chopper Circle, Denver, Colorado 80204; Dicks' Sporting Goods Park, 6000 Victoria Way, Commerce City, Colorado 80022; Bluebird Theater, 3317 East Colfax Avenue, Denver, Colorado 80206. RESTRICTIONS. This authority is restricted: (a) to the use of one vehicle; (b) to the use of a vehicle with a maximum capacity of 44 passengers; (c) to round-trips originating and terminating at 6232 Beach Street, Denver, Colorado that may include stops only at the addresses identified herein; and (d) against service to or from hotels, motels, or airports.

If the extension is granted, CPCN No. 55846 will read:

Transportation of passengers in call-and-demand shuttle service and call-and-demand charter service between points in the Counties of Arapahoe and Denver, and between said points on the one hand, and points in the Counties of Adams, Arapahoe, Boulder, Broomfield, Clear Creek, Denver, Douglas, El Paso, Gilpin, Jefferson, and Larimer, on the other hand.

4. On November 15, 2023, Mountain Star Transportation LLC dba Explorer Tours (Explorer Tours) filed a Petition for Intervention and Entry of Appearance (Petition to Intervene). In the Petition, Explorer Tours stated that the proposed extended authority, if granted, would conflict with its CPCN No. 55952, which provides Explorer Tours with the authority to provide "Transportation of passengers in call-and-demand shuttle service between all points in DenverCounty, on the one hand, and Red Rocks Park and Amphitheatre, State of Colorado, on the other hand." For this reason, Explorer Tours asserts that it has standing to intervene in this proceeding.

5. On December 20, 2023, the Commission deemed the Application complete and referred the proceeding to an Administrative Law Judge (ALJ). The proceeding was subsequently assigned to the undersigned ALJ.

B. Petition to Intervene

6. The authority sought in the Application and the authority granted in CPCN No. 55952 overlap. For this reason, the ALJ finds and concludes that this proceeding “may substantially affect the pecuniary or tangible interests” of Explorer Tours and that Explorer Tours’ “interests would not otherwise be adequately represented.”¹ Accordingly, Explorer Tours’ Petition will be granted.

C. Hearing

7. 303 Party Bus has requested that the hearing take place in Denver, Colorado which the ALJ construes as a request for an **in-person** hearing in Denver, Colorado. In its intervention, Explorer Tours did not address the location or the method of conducting the hearing.

8. The Commission can conduct in-person, remote, or hybrid hearings. A remote hearing is one in which the participants appear and participate from remote locations over the Zoom web conferencing platform. A hybrid hearing involves the ALJ and at least one party and/or witness participating from one of the Commission’s hearing rooms in Denver, and the remaining party(ies) and witness(es) participating from one or more remote locations using the Zoom web conferencing platform. An in-person hearing is one in which the ALJ and all parties and witnesses participate in the hearing at the same location.

9. Based on the submissions of the parties, the ALJ will schedule the hearing as an in-person hearing on **May 1, 2024**.

¹ Rule 1401(c) of the Commission’s Rules of Practice and Procedure, 4 *Code of Colorado Regulations* 723-1.

10. Any party with a scheduling conflict or that wants the hearing to be conducted by a different method must file a Motion to Reschedule and/or to modify the method of conducting the hearing by **February 2, 2024**. Before filing the motion, the filing party must confer with the other parties about whether any other party opposes the motion and the dates that all parties are available during the weeks of April 29, 2024, and May 6, 2024. The motion to reschedule must then: (a) state whether it is opposed or unopposed; (b) identify the dates that all of the parties are available for a hearing during the weeks of April 29, 2024, and May 6, 2024; and (c) identify the number of days that the parties anticipate the remote hearing will take.

D. Procedural Schedule

11. To facilitate the orderly and efficient litigation of this proceeding, the ALJ finds and concludes that a procedural schedule should be adopted, so that each party will have an opportunity prior to the hearing to review a summary of the anticipated testimony of each witness the other party intends to call at the hearing, and to review copies of the exhibits the other party will present at the hearing. Therefore, this Decision will order the parties to file, and to serve on each other, a list of witnesses, a summary of the testimony of each witness, and copies of the exhibits the filing party intends to present at the hearing.

12. On or before **March 15, 2024**, 303 Party Bus will be ordered to file and serve on the Explorer Tours: (a) a list that identifies the witnesses 303 Party Bus intends to call at the hearing, the last known address and telephone number of each witness, and a summary of the anticipated testimony of each witness; and (b) copies of the exhibits 303 Party Bus will present at the hearing.

13. On or before **April 5, 2024**, Explorer Tours will each be ordered to file and serve on 303 Party Bus: (a) a list that identifies the witnesses Explorer Tours intends to call at the

hearing, the last known address and telephone number of each witness, and a summary of the anticipated testimony of each witness; and (b) copies of the exhibits Explorer Tours will present at the hearing.

14. As referenced in this Decision, serving a party with any document (*e.g.*, witness and exhibit lists and exhibits) means that the party is required to give the document to the other party or parties to the proceeding. Service must be accomplished pursuant to Rule 1205 of the Commission's Rules of Practice and Procedure.² The Commission's Rules (including Rule 1205) are available on the Commission's website and in hard copy from the Commission.

15. All parties must establish through a certificate of service that they have served a filed document on all other parties in the proceeding. A certificate of service is a statement indicating how and when a document was served on the other party (*e.g.*, the filing was served by placing the document in the United States mail, first class postage-prepaid to an identified address on an identified date).³

16. All exhibits shall be identified by sequential numbers (*e.g.*, Exhibit 1, Exhibit 2, and Exhibit 3). Each exhibit shall include the following information: exhibit number, proceeding number, name of the witness who will testify to the exhibit's foundation, and the date of the hearing. The parties shall work together to ensure that there are no overlaps in the numbering of the exhibits.

17. The filing of an exhibit with the Commission does not, by itself, admit an exhibit into the evidentiary record of the hearing.

² 4 CCR 723-1.

³ See Rule 1205(e), 4 CCR 723-1.

18. If any exhibit is longer than two pages, the party offering the exhibit shall sequentially number each page of the exhibit.

19. The parties are on notice that: (a) any witness may be prohibited from testifying, except in rebuttal, unless that witness is identified on the list of witnesses filed and served as required herein; (b) failure to provide an accurate description of the anticipated testimony of a witness may also result in an order prohibiting such witness from testifying; and (c) any exhibit may not be received in evidence, except in rebuttal, unless filed and served as required herein.

E. Additional Advisements

20. The Parties are advised and are on notice that this proceeding is governed by the Rules of Practice and Procedure found at 4 CCR 723-1. The ALJ expects the Parties to be familiar with and to comply with these rules. The rules are available on the Commission's website (<https://puc.colorado.gov/pucrules>) and in hard copy from the Commission.

II. ORDER

A. It Is Ordered That:

1. The Petition for Intervention filed by Mountain Star Transportation LLC dba Explorer Tours (Explorer Tours) on November 15, 2023, is granted.

2. An in-person hearing is scheduled as follows:

DATE: May 1, 2024

TIME: 9:00 a.m. to 5:00 p.m.

PLACE: Commission Hearing Room, 1560 Broadway, Suite 250, Denver, Colorado

3. On or before **February 2, 2024**, any party that cannot attend the hearing on May 1, 2024, or that wishes to modify the method of conducting the hearing, must file a motion to reschedule the hearing, as described above.

4. On or before **March 15, 2024**, 303 Party Bus LLC (303 Party Bus) shall file and serve on Explorer Tours: (a) a list that identifies the witnesses 303 Party Bus intends to call at the hearing, the last known address and telephone number of each witness, and a summary of the anticipated testimony of each witness; and (b) copies of the exhibits 303 Party Bus will present at the hearing.

5. On or before **April 5, 2024**, Explorer Tours shall each file and serve on 303 Party Bus: (a) a list that identifies the witnesses 303 Party Bus intends to call at the hearing, the last known address and telephone number of each witness, and a summary of the anticipated testimony of each witness; and (b) copies of the exhibits 303 Party Bus will present at the hearing.

6. This Decision is effective immediately.

(S E A L)



THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

CONOR F. FARLEY

Administrative Law Judge

ATTEST: A TRUE COPY

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

Rebecca E. White,
Director