

Decision No. R25-0158-I

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

PROCEEDING NO. 24A-0532CP

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IN THE MATTER OF THE APPLICATION OF COLORADO YETI TOURS LLC DOING BUSINESS AS COLORADO YETI TOURS 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  
CLARIFYING PARTIES' LANGUAGE**

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Issued Date: March 6, 2025

**I. SUMMARY AND PROCEDURAL HISTORY**

**A. Summary**

1. This Decision clarifies the Administrative Law Judge's ("ALJ") understanding of the parties' language as set out in the First Stipulated Motion to Restrictively Amend Application and Withdraw Intervention ("First Stipulated Motion") and Second Stipulated Motion to Restrictively Amend Application and Withdraw Intervention ("Second Stipulated Motion"). Similarly, this Decision allows the parties 14 days from this Decision's date to correct the ALJ's proposed language if needed.

**B. Procedural History**

2. On December 5, 2024, Colorado Yeti Tours LLC doing business as Colorado Yeti Tours ("Yeti") filed the above-captioned Application for a Certificate of Public Convenience and Necessity to Operate as a Common Carrier by Motor Vehicle for Hire ("Application"). Yeti filed an amendment to question 10 on the Application on December 12, 2024.

3. On December 16, 2024, the Commission issued public notice of the authority sought by Yeti in the Application as follows:

For authority to operate as a common carrier by motor vehicle for hire for the transportation of passengers in call-and-demand sightseeing service between all points in the Counties of El Paso, Fremont, and Teller. This application is restricted as follows: all tours will originate and terminate from the same location in El Paso County.

4. On December 23, 2024, Colorado Jeep and Off Road Tours, Inc. (“Colorado Jeep”) filed a Petition for Intervention and Entry of Appearance (“Colorado Jeep Intervention”), including its Letter of Authority. Colorado Jeep claimed it was entitled to intervention of right. The Administrative Law Judge (“ALJ”) acknowledged Colorado Jeep’s intervention of right in Decision No. R25-0102-I.

5. On January 15, 2025, Marketing Services Inc. of Pueblo (“Marketing Services”) filed an Entry of Appearance and Petition for Intervention, including its Letter of Authority. Marketing Services claimed it was entitled to intervention of right. The ALJ acknowledged Marketing Services’ intervention of right in Decision No. R25-0102-I.

6. On January 22, 2025, the Commission deemed the Application complete and referred the proceeding by minute entry to an ALJ.

7. On February 12, 2025, Applicant and Marketing Services filed its First Stipulated Motion. Yeti did not include the required conferral statement in the First Stipulated Motion, so the ALJ did not know Colorado Jeep’s position.<sup>1</sup> Accordingly, Colorado Jeep had 14 days to respond to the motion.<sup>2</sup>

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<sup>1</sup> Rule 1400(a) of the Commission’s Rules of Practice and Procedure, 4 *Code of Colorado Regulations* (“CCR”) 723-1.

<sup>2</sup> Rule 1400(b), 4 CCR 723-1.

8. On February 14, 2025, Applicant and Colorado Jeep filed a Second Stipulated Motion to Restrictively Amend Application and Withdraw Intervention (“Second Stipulated Motion”). Yeti did not include the required conferral statement in the Second Stipulation Motion, so the ALJ did not know Marketing Services’ position.<sup>3</sup> Accordingly, Marketing Services had 14 days to respond to the motion.<sup>4</sup>

9. No party filed an objection to the First or Second Stipulated Motion.

**II. FINDINGS AND CONCLUSIONS**

**A. Requests to Amend Application**

10. The First Stipulated Motion seeks to amend the authority Yeti seeks in the Application, modifying the proposed restrictions on the authority as follows (proposed changes underlined):

RESTRICTIONS:

(I) All sightseeing service will originate and terminate from the same location within El Paso County.

(II) The maximum fleet size for providing this sightseeing service is two vehicles operating at any one time.

(III) No vehicles in the fleet providing this sightseeing service will exceed a seating capacity of seven people.<sup>5</sup>

11. The Second Stipulated Motion also seeks to amend the authority Yeti seeks in the Application, modifying the proposed restrictions on the authority as follows (proposed changes underlined):

RESTRICTIONS:

(IV) This sightseeing service shall not operate on the segment of Fremont County Road 67, known as Phantom Canyon Road.

<sup>3</sup> Rule 1400(a), 4 CCR 723-1.

<sup>4</sup> Rule 1400(b), 4 CCR 723-1.

<sup>5</sup> Exhibit A to First Stipulated Motion.

(V) This sightseeing service shall not operate on the segments of Fremont County Road 9 and Teller County Road 88, known as Shelf Road.

(VI) This sightseeing service shall not operate on the segment of Fremont County Road 3 known as Temple Canyon Road.

(VII) This sightseeing service shall not operate on Fremont County Road 69.

(VIII) This sightseeing service shall not utilize any of its vehicles in the crossing of the Royal Gorge Bridge.<sup>6</sup>

12. Both the First and Second Stipulated Motions indicate that the parties seek to amend the Application as set forth therein to settle and resolve their disputes in this Proceeding; if the proposed amendments are accepted, the Intervenors' interests in the Application would be eliminated or resolved, and Intervenors would withdraw their Interventions.<sup>7</sup>

13. To be acceptable, changes to an application's requested authority must be restrictive in nature, clear and understandable, and administratively enforceable. Both the authority and any restriction on that authority must be unambiguous and must be contained wholly within the permit. Both must be worded so that a person will know, from reading the permit and without having to resort to any other document, the exact extent of the authority and of each restriction. Clarity is essential because the scope of an authority must be found within the four corners of the permit, which is the touchstone by which one determines whether the operation of a carrier is within the scope of its Commission-granted authority.

14. While granting all pending motions would result in the pending application being unopposed, the proposed language does not meet the governing standard. Construing the motions together to effectuate the apparent intent of the parties, resolve ambiguities, and modify the proposed authority so that it is clear and understandable, the ALJ understands the requested relief to seek the following authority:

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<sup>6</sup> Exhibit A to Second Stipulated Motion.

<sup>7</sup> First Stipulated Motion at 2; Second Stipulated Motion at 2-3.

Transportation of passengers in call-and demand sightseeing service between all points in the Counties of El Paso, Fremont, and Teller, State of Colorado.

**RESTRICTIONS:**

(I) Against sightseeing service originating and terminating in the Counties of Fremont and Teller.

(II) Against operating more than two vehicles at any one time.

(III) No vehicle will exceed a seating capacity of seven people, including the driver.

(IV) Against providing sightseeing service on the segment of Fremont County Road 67 known as Phantom Canyon Road.

(V) Against providing service on the segments of Fremont County Road 9 and Teller County Road 88 known as Shelf Road.

(VI) Against providing service on the segment of Fremont County Road 3 known as Temple Canyon Road.

(VII) Against providing service on Fremont County Road 69.

(VIII) Against service using a vehicle crossing the Royal Gorge Bridge.

15. To ensure the Parties' intent is met, they will have an opportunity to respond to language as construed and clarified. If, however, the parties disagree with the ALJ's interpretation, they must file a response with corrections within 14 days from this decision.

**III. ORDER**

**A. It Is Ordered That:**

1. As construed by the undersigned, the parties request to further amend the Application for a Certificate of Public Convenience and Necessity to Operate as a Common Carrier by Motor Vehicle for Hire to request the following authority:

Transportation of passengers in call-and demand sightseeing service between all points in the Counties of El Paso, Fremont, and Teller, State of Colorado.

RESTRICTIONS:

(I) Against sightseeing service originating and terminating in the Counties of Fremont and Teller.

(II) Against operating more than two vehicles at any one time.

(III) No vehicle will exceed a seating capacity of seven people, including the driver.

(IV) Against providing sightseeing service on the segment of Fremont County Road 67 known as Phantom Canyon Road.

(V) Against providing service on the segments of Fremont County Road 9 and Teller County Road 88 known as Shelf Road.

(VI) Against providing service on the segment of Fremont County Road 3 known as Temple Canyon Road.

(VII) Against providing service on Fremont County Road 69.

(VIII) Against service using a vehicle crossing the Royal Gorge Bridge.

2. The parties have 14 days from the date of this Decision to file any corrections to the language in Ordering Paragraph 1.

3. This Decision is effective immediately.

(S E A L)



THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF COLORADO

KELLY A. ROSENBERG

Administrative Law Judge

ATTEST: A TRUE COPY

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

Rebecca E White,  
Director