

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

PROCEEDING NO. 19A-0452CP-EXTENSION

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IN THE MATTER OF THE APPLICATION OF ASPIRE TOURS LLC FOR PERMANENT  
AUTHORITY TO EXTEND OPERATIONS UNDER CERTIFICATE OF PUBLIC  
CONVENIENCE AND NECESSITY NO. 55865.

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**RECOMMENDED DECISION OF  
ADMINISTRATIVE LAW JUDGE  
CONOR F. FARLEY  
ACCEPTING WITHDRAWAL OF  
INTERVENTION, GRANTING APPLICATION WITH  
AMENDMENTS, AND CLOSING PROCEEDING**

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Mailed Date: January 27, 2020

**I. STATEMENT**

**A. Background**

1. On August 16, 2019, Aspire Tours LLC (Aspire) filed the application described in the caption above (Application).

2. On August 19, 2019, the Commission issued the following notice of the Application:

Currently, CPCN No. 55865 authorizes the following:

Transportation of  
passengers:

(I) In call-and-demand sightseeing service

between all points in the Counties of Adams, Arapahoe, Boulder, Broomfield, Denver, Douglas, and Jefferson, State of Colorado.

(II) In call-and-demand sightseeing service

originating in the Counties of Adams, Arapahoe, Boulder, Broomfield, Denver, Douglas, El Paso, and Jefferson, to all points in the Counties of Boulder, Chaffee, Clear Creek, Eagle, El Paso, Fremont, Gilpin, Grand,

Gunnison, Hinsdale, Lake, Larimer, Montrose, Ouray, Park, Pitkin, Routt, Saguache, San Juan, San Miguel, Summit, and Teller, State of Colorado, returning to the origination point.

(III) In call-and-demand sightseeing service

originating in the County of Chaffee, State of Colorado, to all points in the Counties of Chaffee, Fremont, Gunnison, Lake, Park, Saguache, and Teller, State of Colorado returning to the origination point.

(IV) In call-and-demand shuttle service

between all points in the Counties of Adams, Arapahoe, Boulder, Broomfield, Chaffee, Denver, Douglas, El Paso, Jefferson, Eagle, Gilpin, Larimer, Pitkin, San Juan, San Miguel, and Summit, State of Colorado.

RESTRICTIONS:

1. Against transportation of passengers in call-and-demand shuttle service or call-and-demand sightseeing service to: (a) any location on the Pikes Peak Highway in the County of El Paso, Colorado; and (b) any location on Colorado Highway 5 (Mount Evans Road) in the County of Clear Creek, Colorado.
2. Against transportation of passengers to Garden of the Gods Park, 1805 N 30th St, Colorado Springs, Colorado, unless the transportation either (a) originates in the County of Chaffee, State of Colorado, or (b) transports passengers to additional destinations that are not located in the Counties of Denver, El Paso, Jefferson, or Larimer, State of Colorado.
3. Item (IV) is restricted to the transportation of the same passengers that are taking, either prior to and/or subsequent to, a sightseeing tour conducted by Aspire Tours, LLC, during their stay in Colorado.

The proposed extension of authority seeks to eliminate Restrictions (1) and (2) such that the extended CPCN No. 55865 will read as follows:

Transportation of

passengers:

(I) In call-and-demand sightseeing service

between all points in the Counties of Adams, Arapahoe, Boulder, Broomfield, Denver, Douglas, and Jefferson, State of Colorado.

(II) In call-and-demand sightseeing service

originating in the Counties of Adams, Arapahoe, Boulder, Broomfield, Denver, Douglas, El Paso, and Jefferson, to all points in the Counties of Boulder, Chaffee, Clear Creek, Eagle, El Paso, Fremont, Gilpin, Grand,

Gunnison, Hinsdale, Lake, Larimer, Montrose, Ouray, Park, Pitkin, Routt, Saguache, San Juan, San Miguel, Summit, and Teller, State of Colorado, returning to the origination point.

(III) In call-and-demand sightseeing service

originating in the County of Chaffee, State of Colorado, to all points in the Counties of Chaffee, Fremont, Gunnison, Lake, Park, Saguache, and Teller, State of Colorado returning to the origination point.

(IV) In call-and-demand shuttle service

between all points in the Counties of Adams, Arapahoe, Boulder, Broomfield, Chaffee, Denver, Douglas, El Paso, Jefferson, Eagle, Gilpin, Larimer, Pitkin, San Juan, San Miguel, and Summit, State of Colorado.

RESTRICTION:

Item (IV) is restricted to the transportation of the same passengers that are taking, either prior to and/or subsequent to, a sightseeing tour conducted by Aspire Tours, LLC, during their stay in Colorado.

3. On September 17, 2019, Andres Michelich, doing business as Western Slope Rides (Western Slope Rides), filed an Intervention.

4. On September 18, 2019, Ckimy LLC, doing business as iLIMO (iLIMO), filed an Intervention.

5. On September 25, 2019, the Commission deemed the Application complete and referred it to an Administrative Law Judge (ALJ) for disposition. The proceeding was subsequently assigned to the undersigned ALJ.

6. On September 30, 2019, Western Slope Rides withdrew its intervention.

7. On October 7, 2019, the ALJ issued Decision No. R19-0823-I that established a procedural schedule and scheduled the hearing in this proceeding for January 16, 2020. The Decision also ordered counsel to enter an appearance in this matter on behalf of iLIMO or for iLIMO to show cause why Rule 1201, 4 *Code of Colorado Regulations* (CCR) 723-1 of the

Commission's Rules of Practice and Procedure, does not require it to be represented by legal counsel in this matter by November 1, 2019.

8. Decision No. R19-0823-I also acknowledged the withdrawal of Western Slope Rides' intervention.

9. On November 1, 2019, iLIMO filed a Response to the Order to Show Cause in which it stated that iLIMO is a closely-held entity because it has not more than three owners, the amount in controversy in this proceeding does not exceed \$15,000, and that iLIMO desires to have Yassine Chanane, who is the President and owner of iLIMO, represent it in this proceeding.

10. Both parties filed their witness and exhibit lists and exhibits by the deadlines specified in Decision No. R19-0823-I.

11. On January 15, 2020, Aspire filed an Unopposed Motion to Amend Effective Date of Proposed Extension of Authority and to Vacate Evidentiary Hearing (Unopposed Motion). In the Unopposed Motion, Aspire states that the parties have agreed that Restrictions (1) and (2) will continue to be effective until November 1, 2020, at which time they will expire. Thus, the parties propose to amend Certificate of Public Convenience and Necessity (CPCN) No. 55865 as follows with changes shown in underline and strikethrough:

Transportation of  
passengers:

- (I) In call-and-demand sightseeing service  
between all points in the Counties of Adams, Arapahoe, Boulder,  
Broomfield, Denver, Douglas, and Jefferson, State of Colorado.
- (II) In call-and-demand sightseeing service  
originating in the Counties of Adams, Arapahoe, Boulder, Broomfield,  
Denver, Douglas, El Paso, and Jefferson, to all points in the Counties of  
Boulder, Chaffee, Clear Creek, Eagle, El Paso, Fremont, Gilpin, Grand,  
Gunnison, Hinsdale, Lake, Larimer, Montrose, Ouray, Park, Pitkin, Routt,

Saguache, San Juan, San Miguel, Summit, and Teller, State of Colorado, returning to the origination point.

(III) In call-and-demand sightseeing service

originating in the County of Chaffee, State of Colorado, to all points in the Counties of Chaffee, Fremont, Gunnison, Lake, Park, Saguache, and Teller, State of Colorado returning to the origination point.

(IV) In call-and-demand shuttle service

between all points in the Counties of Adams, Arapahoe, Boulder, Broomfield, Chaffee, Denver, Douglas, El Paso, Jefferson, Eagle, Gilpin, Larimer, Pitkin, San Juan, San Miguel, and Summit, State of Colorado.

RESTRICTIONS:

1. Until November 1, 2020, the authority is restricted aAgainst transportation of passengers in call-and-demand shuttle service or call-and-demand sightseeing service to: (a) any location on the Pikes Peak Highway in the County of El Paso, Colorado; and (b) any location on Colorado Highway 5 (Mount Evans Road) in the County of Clear Creek, Colorado. This restriction shall no longer be effective beginning November 1, 2020.
2. Until November 1, 2020, the authority is restricted aAgainst transportation of passengers to Garden of the Gods Park, 1805 N 30th St, Colorado Springs, Colorado, unless the transportation either (a) originates in the County of Chaffee, State of Colorado, or (b) transports passengers to additional destinations that are not located in the Counties of Denver, El Paso, Jefferson, or Larimer, State of Colorado. This restriction shall no longer be effective beginning November 1, 2020.
3. Item (IV) is restricted to the transportation of the same passengers that are taking, either prior to and/or subsequent to, a sightseeing tour conducted by Aspire Tours, LLC, during their stay in Colorado.

12. According to Aspire, “iLIMO has agreed to withdraw its intervention if the

Commission accepts the above proposed modifications to CPCN No. 55865.”<sup>1</sup>

**B. Analysis**

13. The amendments proposed by the parties are restrictive in nature, clear and understandable, and administratively enforceable. They are contained wholly within the scope or

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<sup>1</sup> Unopposed Motion at 3.

the authority sought in the Application. Accordingly, the restrictive amendments proposed by the parties will be accepted.

14. Accepting the amendments has two relevant results. First, the authority sought in the Application will be amended to conform to the restrictive amendments set forth in paragraph 10 above. Second, because iLIMO's intervention has been withdrawn, the Application, as revised by the amendment, is unopposed and, pursuant to § 40-6-109(5), C.R.S., and Commission Rule 1403,<sup>2</sup> will be considered under the modified procedure, without a formal hearing.

15. The Application establishes that Aspire is familiar with the Rules Regulating Transportation by Motor Vehicle and agrees to be bound by, and to comply with, those Rules.<sup>3</sup> The Application and its supporting documentation establish that Aspire has or will have sufficient equipment with which to render the proposed service, and is financially, operationally, and managerially fit to conduct operations under the authority requested. Finally, the Application and the lack of opposition thereto indicate a need for the proposed service as amended. The ALJ finds that the Application, as amended, is reasonable and in the public interest. For the foregoing reasons, the requested authority will be granted.

16. Therefore, in accordance with § 40-6-109, C.R.S., the ALJ recommends that the Commission enter the following order.

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<sup>2</sup> 4 CCR 723-1 of the Rules of Practice and Procedure.

<sup>3</sup> 4 CCR 723-6.

## **II. ORDER**

### **A. The Commission Orders That:**

1. The proposed amendments filed on January 15, 2020 to the Application for a Certificate of Public Convenience and Necessity to Operate as a Common Carrier by Motor Vehicle for Hire (Application) filed by Aspire Tours LLC (Aspire) on August 16, 2019 are granted.

2. The Application is amended as set forth in paragraph 10 above.

3. The intervention filed by Ckimy LLC, doing business as iLIMO (iLIMO), on September 18, 2019 is withdrawn.

4. Intervenor iLIMO is dismissed from this proceeding.

5. The Application, as amended as set forth in paragraph 10 above, is granted.

6. Aspire is granted authority to operate as a common carrier by motor vehicle for hire as follows:

Transportation of  
passengers:

(I) In call-and-demand sightseeing service

between all points in the Counties of Adams, Arapahoe, Boulder, Broomfield, Denver, Douglas, and Jefferson, State of Colorado.

(II) In call-and-demand sightseeing service

originating in the Counties of Adams, Arapahoe, Boulder, Broomfield, Denver, Douglas, El Paso, and Jefferson, to all points in the Counties of Boulder, Chaffee, Clear Creek, Eagle, El Paso, Fremont, Gilpin, Grand, Gunnison, Hinsdale, Lake, Larimer, Montrose, Ouray, Park, Pitkin, Routt, Saguache, San Juan, San Miguel, Summit, and Teller, State of Colorado, returning to the origination point.

## (III) In call-and-demand sightseeing service

originating in the County of Chaffee, State of Colorado, to all points in the Counties of Chaffee, Fremont, Gunnison, Lake, Park, Saguache, and Teller, State of Colorado returning to the origination point.

## (IV) In call-and-demand shuttle service

between all points in the Counties of Adams, Arapahoe, Boulder, Broomfield, Chaffee, Denver, Douglas, El Paso, Jefferson, Eagle, Gilpin, Larimer, Pitkin, San Juan, San Miguel, and Summit, State of Colorado.

RESTRICTIONS:

1. Until November 1, 2020, against transportation of passengers in call-and-demand shuttle service or call-and-demand sightseeing service to: (a) any location on the Pikes Peak Highway in the County of El Paso, Colorado; and (b) any location on Colorado Highway 5 (Mount Evans Road) in the County of Clear Creek, Colorado. This restriction shall no longer be effective beginning November 1, 2020.
2. Until November 1, 2020, against transportation of passengers to Garden of the Gods Park, 1805 N 30th St, Colorado Springs, Colorado, unless the transportation either (a) originates in the County of Chaffee, State of Colorado, or (b) transports passengers to additional destinations that are not located in the Counties of Denver, El Paso, Jefferson, or Larimer, State of Colorado. This restriction shall no longer be effective beginning November 1, 2020.
3. Item (IV) is restricted to the transportation of the same passengers that are taking, either prior to and/or subsequent to, a sightseeing tour conducted by Aspire Tours, LLC, during their stay in Colorado.
7. Aspire shall operate in accordance with all applicable Colorado law and

Commission rules.

8. Aspire shall not commence operation under the extended authority until it has complied with the requirements of Colorado law and Commission rule, including without limitation:

- a. causing proof of insurance (Form E or self-insurance) or surety bond (Form G) coverage to be filed with the Commission;
- b. paying to the Commission, the motor vehicle fee 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. having an effective tariff on file with the Commission. Aspire shall file an advice letter and tariff on not less than ten days' notice. The advice letter and tariff shall be filed as a new Advice Letter proceeding and shall comply with all applicable rules. 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 effective date. (Additional tariff information can be found on the Commission's website at [Colorado.gov/dora/puc](http://Colorado.gov/dora/puc) and by following the transportation common and contract carrier links to tariffs); and
- d. paying the applicable issuance fee.

9. If Aspire does not cause proof of insurance or surety bond to be filed, pay the appropriate motor vehicle fees, file an advice letter and proposed tariff, and pay the issuance fee within 60 days of the effective date of this Decision, then the grant of the extended authority shall be void. 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.

10. The Commission will notify Aspire in writing when the Commission's records demonstrate compliance with paragraph 8.

11. Proceeding No. 19A-0452CP-Extension is closed.

12. This Recommended Decision shall be effective on the day it becomes the Decision of the Commission, if that is the case, and is entered as of the date above.

- a. If no exceptions are filed within 20 days after service or within any extended period of time authorized, or unless the decision is stayed by the Commission upon its own motion, the recommended decision shall become the decision of the Commission and subject to the provisions of § 40-6-114, C.R.S.
- b. If a party seeks to amend, modify, annul, or reverse basic findings of fact in its exceptions, that party must request and pay for a transcript to be filed, or the

parties may stipulate to portions of the transcript according to the procedure stated in § 40-6-113, C.R.S. If no transcript or stipulation is filed, the Commission is bound by the facts set out by the administrative law judge and the parties cannot challenge these facts. This will limit what the Commission can review if exceptions are filed.

13. If exceptions to this Recommended Decision are filed, they shall not exceed 30 pages in length, unless the Commission for good cause shown permits this limit to be exceeded.

(S E A L)



ATTEST: A TRUE COPY

Doug Dean,  
Director

THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF COLORADO

CONOR F. FARLEY

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Administrative Law Judge