

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 21A-0103CP-TA

IN THE MATTER OF THE APPLICATION OF DESERT RAT TOURS, LLC FOR
TEMPORARY AUTHORITY TO OPERATE AS A COMMON CARRIER BY MOTOR
VEHICLE FOR HIRE.

**COMMISSION DECISION DENYING
TEMPORARY AUTHORITY**

Mailed Date: March 30, 2021
Adopted Date: March 24, 2021

I. BY THE COMMISSION

A. Statement, Findings, and Conclusions

1. On March 5, 2021, Desert Rat Tours, LLC (Desert Rat Tours), filed an application for temporary authority¹ to operate as a common carrier by motor vehicle for hire.

2. In this application, Desert Rat Tours requests temporary authority to operate as a common carrier by motor vehicle for hire as follows:

Transportation of
passengers in call-and-demand shuttle service
between all points in the County of Mesa, State of Colorado.

3. The Commission gave notice of the application on March 8, 2021, for a period of five days pursuant to § 40-10.1-204(4), C.R.S.

¹ Pursuant to § 40-10.1-204(1), C.R.S., the Commission is authorized to grant temporary authority when "there appears to be an immediate and urgent need to any point or within a territory having no such service capable of meeting the need."

4. The notice period expired on March 18, 2021. Interventions to the temporary authority application were timely filed by Rapid Creek Cycles & Sports, LLC on March 11, 2021, Powderhorn Mountain Resort on March 11, 2021, and Pali-Tours Ltd. on March 11, 2021.

5. Rapid Creek Cycles & Sports, LLC may, under Common Carrier Certificate No. 55955,² provide shuttle service between all points within a 29-mile radius of 239 Main Street, Palisade, Colorado.

6. Powderhorn Mountain Resort may, under Common Carrier Certificate No. 55963, provide charter and shuttle service between the Palisade Plunge parking lot in Palisade, Colorado and the Mesa Top Trailhead³ managed by the United States Forest Service along Colorado Highway 65.

7. Pali-Tours Ltd. may, under Common Carrier Certificate No. 55945,⁴ provide shuttle service between all points in Mesa County, State of Colorado, that are located within a 30-mile radius of the intersection of 3rd Street and Main Street in Palisade, Colorado.

8. A review of the geographic area and type of service authorized by the common carrier certificate of each of the intervenors does indicate that an overlap exists between the transportation service each intervenor may provide, and the transportation service requested by Desert Rat Tours in this temporary authority application.

9. Pursuant to Rule 6204(c) of the Rules Regulating Transportation by Motor Vehicle, 4 *Code of Colorado Regulations* (CCR) 723-6, Desert Rat Tours must meet a two-fold

² Certificate No. 55955 does include certain restrictions as to where shuttle service may be provided in Mesa County but does authorize shuttle service between points in Palisade and the Mesa Top Trailhead.

³ The Mesa Top trailhead is the location of the starting point of the Palisade Plunge bicycle trail.

⁴ Certificate No. 55945 does include certain restrictions as to where shuttle service may be provided in Mesa County but does authorize shuttle service between points in Palisade and the Mesa Top Trailhead.

test: first, that there is an immediate and urgent need for the proposed services, and second, that there is no existing carrier capable of meeting the need. If Desert Rat Tours fails to meet either test, the application must be denied.

10. Desert Rat Tours, provided the following statements to support this temporary authority application:

The United State Forest Service is currently taking applications for temporary special use permits to allow shuttle service from Palisade, CO to the Mesa Top and Shirttail Point trailheads. ... The USFS cutoff for applications is March 15, 2021, and Desert Rat Tours is requesting approval of temporary authorization to meet the USFS deadline.⁵

11. The information provided by Desert Rat Tours in this statement appears to indicate the temporary authority is required to provide transportation service between Palisade and the Mesa Top trailhead and not between other points in Mesa County.

12. Desert Rat Tours did not submit any letters from the public in support of this temporary authority application.

13. In consideration of the limited support submitted by Desert Rat Tours with this application and the interventions of three common carriers with authority to provide shuttle service in the same geographic area as requested in the temporary authority, the Commission finds that Desert Rat Tours has not shown there is an immediate and urgent need for the transportation services requested in this application and there is no existing carrier capable of meeting the need.

⁵ Application at p. 4.

14. The Commission also finds that Desert Rat Tours has not met the requirements set forth in § 40-10.1-204, C.R.S., or Rule 6204, 4 CCR 723-6, to obtain temporary authority. Therefore, this application for temporary authority is not in the public interest and will be denied.

II. ORDER

A. The Commission Orders That:

1. The application filed on March 5, 2021, by Desert Rat Tours, LLC for temporary authority to operate as a common carrier by motor vehicle for hire is denied.

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 or serves this Decision.

3. This Decision is effective upon its Mailed Date.

B. **ADOPTED IN COMMISSIONERS' WEEKLY MEETING March 24, 2021.**

(S E A L)



ATTEST: A TRUE COPY

Doug Dean,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

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JOHN GAVAN

MEGAN M. GILMAN

Commissioners