

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 21A-0155CP-SUSPENSION

IN THE MATTER OF THE APPLICATION OF COLORADO XPLOER, LLC DOING
BUSINESS AS COLORADO XPLOER FOR AN ORDER OF THE COMMISSION
AUTHORIZING A SUSPENSION OF CERTIFICATE OF PUBLIC CONVENIENCE AND
NECESSITY NO. 55864.

**COMMISSION DECISION GRANTING
SUSPENSION OF OPERATIONS**

Mailed Date: May 7, 2021

Adopted Date: May 5, 2021

I. BY THE COMMISSION

A. Statement, Findings, and Conclusions

1. On April 16, 2021, Colorado Xplorer, LLC, doing business as Colorado Xplorer filed an application requesting the Commission authorize the suspension of Certificate of Public Convenience and Necessity (CPCN) PUC No. 55864 from April 1, 2021 through October 1, 2021.

2. The Commission noticed this application to all interested persons, firms, and corporations pursuant to § 40-6-108(2), C.R.S., on April 19, 2021, for a period of ten days.

3. The notice period expired on April 29, 2021. No petition to intervene or otherwise participate in this proceeding has been filed. This proceeding is therefore uncontested and under § 40-6-109(5), C.R.S., may be determined without a hearing.

4. Rule 6205(b) of the Rules Regulating Transportation by Motor Vehicle, 4 *Code of Colorado Regulations* (CCR) 723-6, states that “A Fully Regulated Intrastate Carrier may not

request and the Commission shall not grant a voluntary suspension persisting for longer than: (I) 12 consecutive months; [or] (II) 12 months in any 24-month period.” Rule 6205(c), 4 CCR 723-6, further states that “any request for waiver or variance from this time period limitation must demonstrate that the suspension is in the public interest and that alternative service will be available during the period of suspension.”

5. Pursuant to Rule 1501(c) of the Commission’s Rules of Practice and Procedure, 4 CCR 723-1, we administratively notice that Colorado Xplorer, LLC, doing business as Colorado Xplorer was previously granted a suspension of operations under CPCN PUC No. 55864 from August 1, 2020 through April 1, 2021, by Decision No. C20-0632, in Proceeding No. 20A-0315CP-Suspension on September 1, 2020. If the suspension requested in this application is granted, CPCN PUC No. 55864 will be suspended for a period of 14 months in a 24-month period. Therefore, to grant the suspension requested in this application, the Commission will have to waive on its own motion, Rule 6205(b), 4 CCR 723-6.

6. Pursuant to Rule 1003(a) of the Commission’s Rules of Practice and Procedure, 4 CCR 723-1, the Commission may “for good cause shown, grant waivers or variances from tariffs, Commission rules, and substantive requirements contained in Commission decisions. In making its determination the Commission may take into account, but is not limited to, considerations of hardship, equity, or more effective implementation of overall policy on an individual basis.”

7. In support of this suspension application, Shayne Dombroski the manager of Colorado Xplorer states:

Due to COVID, the decrease in tourism, and closure of many group activities Colorado Xplorer is unable to offer group adventure tours. This ski season the resorts went to a limited reservation system and did not allow for group tour

operators. As things start to slowly open and we approach the summer tourism season it is unclear how we will be able to offer group sightseeing tours to Rocky Mountain National park and other state historical sites as well as how our activity vendor partners (rafting companies, commercial hot springs, etc.) will address COVID concerns and if they will allow groups. ...

We hope to return to service well before the end of the proposed suspension period based on how much opens up as we deal with putting COVID behind us. At that time [we] will file to come off suspension early.

8. In accordance with Rule 6205 of the Rules Regulating Transportation by Motor Vehicle, 4 CCR 723-6, the Commission finds that the information submitted by Colorado Xplorer, LLC, doing business as Colorado Xplorer with this application warrants the granting of a suspension of operations under CPCN PUC No. 55864.

9. The Commission also finds that the application for authority to suspend operations under CPCN PUC No. 55864 is in the public interest and will be granted.¹

II. ORDER

A. The Commission Orders That:

1. This application was deemed complete on May 5, 2021, within the meaning of § 40-6-109.5, C.R.S.

2. On its own motion, the Commission waives Rule 6205(b), 4 *Code of Colorado Regulations* 723-6, consistent with the discussion above.

3. The application filed by Colorado Xplorer, LLC, doing business as Colorado Xplorer on April 16, 2021, for authority to suspend operations under Certificate of Public Convenience and Necessity (CPCN) PUC No. 55864 is granted, *nunc pro tunc*, from April 2, 2021 through October 1, 2021.

¹ As Decision No. C20-0632 granted the suspension of CPCN PUC No. 55864 through April 1, 2021, the suspension period granted by this Decision will begin on April 2, 2021.

4. On October 2, 2021, CPCN PUC No. 55864 shall be administratively reactivated.
5. Prior to commencing operations, Colorado Xplorer, LLC, doing business as Colorado Xplorer shall: (a) cause proof of insurance or surety bond coverage to be filed with the Commission pursuant to Rule 6008, 4 *Code of Colorado Regulations* 723-6; (b) pay to the Commission the applicable vehicle identification fee for each vehicle to be operated under authority granted by the Commission; and, (c) ensure that an effective tariff is on file with the Commission, in compliance with applicable Commission rules.
6. 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.
7. This Decision is effective on its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
May 5, 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

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Commissioners