

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 21A-0129CP

IN THE MATTER OF THE APPLICATION OF GRAND VALLEY GRAPES AND GRAINS ADVENTURES, LLC DOING BUSINESS AS GRAND VALLEY GRAPES AND GRAINS ADVENTURES FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE AS A COMMON CARRIER BY MOTOR VEHICLE FOR HIRE.

**INTERIM DECISION OF
ADMINISTRATIVE LAW JUDGE
ROBERT I. GARVEY
GRANTING INTERVENTION AND
SETTING REMOTE PREHEARING CONFERENCE**

Mailed Date: May 5, 2021

I. STATEMENT

1. On March 19, 2021, Grand Valley Grapes and Grains Adventures, LLC, doing business as Grand Valley Grapes and Grains Adventures (Grand Valley) filed an Application seeking a Certificate of Public Convenience and Necessity to Operate as a Common Carrier of Passengers by Motor Vehicle for Hire (Application) with the Colorado Public Utilities Commission (Commission).

2. On March 22, 2021, the Commission provided public notice of the Application by publishing a summary of the same in its Notice of Applications Filed:

For authority to operate as a common carrier by motor vehicle for hire for the transportation of

passengers in call-and-demand charter service, call-and-demand shuttle service, and call-and-demand sightseeing service

between all points in Mesa County, State of Colorado.

3. On April 15, 2021, Rapid Creek Cycles & Sports, LLC (Rapid Creek) filed its Intervention by Right through Rondo Buecheler. This filing identified Mr. Buecheler as the owner of Rapid Creek. The filing included a copy of the Commission authority held by Rapid Creek.

4. On April 19, 2021, Grand Valley filed an Amendment to Proceeding No 21A-0129CP (Amendment) In the Amendment, Grand Valley moves to amend its application with the addition of the following restrictions:

Restricted against the transportation of passengers originating at any point in Mesa County, Colorado, on the one hand, and terminating at the following locations:

- (1) Powderhorn Mountain Resort, 48388 Powderhorn Road, Mesa, Colorado 81643;
- (2) Mesa Top Trailhead on Grand Mesa;
- (3) Shirttail Point Trailhead on Grand Mesa;
- (4) Grand Mesa Land's End Observatory; or
- (5) Wild Rose Picnic Area on Lands End Road on Grand Mesa, on the other hand.

5. On April 21, 2021, Pali-Tours LTD (Pali-Tours), filed its Notice of Intervention by Right through Dave Smith. This filing identifies Mr. Smith as the owner of Pali-Tours. This filing attached Commission Certificate No. 55945 held by Pali-Tours.

6. On April 28, 2021, the Commission deemed the Application complete and referred it to the undersigned Administrative Law Judge (ALJ) for disposition.

7. On April 29, 2021, Rapid Creek withdrew its intervention.

II. INTERVENTIONS

8. As noted above, Pali-Tours filed a copy of its Commission authority with its intervention and established that it is a closely-held entity; *i.e.*, that it has no more than three

owners. See, Rule 1201(b)(II), 4 *Code of Colorado Regulations* (CCR) 723-1 of the Commission's Rules of Practice and Procedure and § 13-1-127(1)(a), C.R.S.

9. Pali-Tours also demonstrated that it meets the requirements of § 13-1-127(2), C.R.S. This portion of the statute provides that an officer¹ may represent a closely-held entity before an administrative agency if both of the following conditions are met: (a) the amount in controversy does not exceed \$15,000; and (b) the officer provides the administrative agency with evidence, satisfactory to the agency, of the authority of the officer to represent the closely-held entity.²

10. The intervention of Pali-Tours is granted, and it may be represented by Dave Smith.

III. PREHEARING CONFERENCE

11. In anticipation of scheduling an evidentiary hearing, the ALJ will schedule a prehearing conference, in accordance with Rule 1409(a) of the Rules of Practice and Procedure, 4 CCR 723-1. A prehearing conference, via video platform, will be scheduled for May 27, 2021 at 9:00 a.m.

12. Holding the prehearing conference remotely is consistent with current public health orders and advisories to prevent the spread of the coronavirus (COVID-19) in Colorado. The Parties may **not** appear at the Commission in person to attend the prehearing conference. Instead, Parties and their counsel shall appear at the prehearing conference from remote

¹ Section 13-1-127(1)(i), C.R.S., defines "Officer" as "a person generally or specifically authorized by an entity to take any action contemplated by" § 13-1-127, C.R.S.

² As pertinent here, § 13-1-127(2.3), C.R.S., states that a person in whom management of a limited liability company is vested or reserved "shall be presumed to have the authority to appear on behalf of the closely held entity upon providing evidence of the person's holding the specified office or status[.]"

locations, either by video conference, or by telephone, using the link and instructions provided in this Decision. The ALJ encourages the Parties to attend by video conference.

13. Attachment A to this Decision provides the requirements and information addressing how to use the Zoom platform for participating in the hearing.

14. The parties are advised, and are on notice, that the ALJ will deem a Party's failure to appear or to participate in the prehearing conference to be a waiver of that Party's objection to the rulings made, the procedural schedule established, and the hearing dates scheduled during the prehearing conference. Failure to appear may also lead to a party being excused from the proceeding.

IV. ORDER

A. It Is Ordered That:

1. A prehearing conference in this proceeding is scheduled as follows:

DATE: May 27, 2021

TIME: 9:00 a.m.

METHOD: By video conference using ZOOM at the link provided to parties
by email prior to the prehearing conference

2. Attachment A is incorporated into this Decision.

3. The intervention of Pali-Tours LTD is granted and it may be represented by Dave Smith.

4. The Parties shall be held to the advisements in this Decision.

5. This Decision is effective immediately.

(S E A L)



THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

ROBERT I. GARVEY

Administrative Law Judge

ATTEST: A TRUE COPY

A handwritten signature in cursive script that reads "Doug Dean".

Doug Dean,
Director