

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 19A-0232CP

IN THE MATTER OF THE APPLICATION OF DNC PARKS & RESORTS AT ROCKY MOUNTAIN PARK INN, INC. DOING BUSINESS AS RIDGELINE TOURS FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE AS A COMMON CARRIER BY MOTOR VEHICLE FOR HIRE.

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

Mailed Date: August 21, 2019

I. STATEMENT

A. Background

1. On May 6, 2019, DNC Parks & Resorts at Rocky Mountain Park Inn, Inc., doing business as Ridgeline Tours (Ridgeline Tours) filed the application described in the caption above (Application).

2. On May 13, 2019, the Commission issued the following notice of the Application:

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

passengers:

- (I) in call-and-demand sightseeing service originating at the Ridgeline Hotel, 101 South St. Vrain Avenue, Estes Park, Colorado, to all points in Larimer County, State of Colorado, returning to the origination point; and,
- (II) in call-and-demand charter service between all points in Larimer County, Colorado, and between said points, on the one hand, and all points in the State of Colorado, on the other hand.

3. On May 29, 2019, Estes Valley Transport, Inc. (EVT) filed an Intervention.

4. On June 19, 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.

5. On June 27, 2019, the ALJ issued Decision No. R19-0557-I that established a procedural schedule and scheduled the hearing in this proceeding for September 19, 2019.

6. On July 19, 2019, Ridgeline Tours filed an Unopposed Motion to Reschedule Hearing Date and Other Procedural Scheduling Items (Unopposed Motion).

7. On July 26, 2019, Chief Administrative Law Judge G. Harris Adams issued Decision No. R19-0635-I in the undersigned ALJ's absence that granted the Unopposed Motion and vacated the hearing.

8. On August 5, 2019, the parties jointly filed a Stipulation for Amendment of the Application and Withdrawal of Intervention (Stipulation). In the Stipulation, the parties state that Ridgeline Tours agreed to amend the Application to include the following restrictions: (a) against providing any transportation service to or from the Denver International Airport; and (b) restricted to service involving vehicles with a seating capacity of less than 15 passengers (excluding the driver). EVT states that it will withdraw its intervention if the Commission grants the Application subject to the restrictions noted above.

B. Analysis

9. The amendments proposed by the parties are restrictive in nature, clear and understandable, and administratively enforceable. They are contained wholly within the scope or the authority sought in the Application. Accordingly, the restrictive amendments proposed by the parties will be accepted.

10. 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 8 above. Second, because Ridgeline Tours' 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 1403,¹ will be considered under the modified procedure, without a formal hearing.

11. The Application establishes that Ridgeline Tours is familiar with the Rules Regulating Transportation by Motor Vehicle and agrees to be bound by, and to comply with, those Rules.² The Application and its supporting documentation establish that Ridgeline Tours 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.

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

II. ORDER

A. The Commission Orders That:

1. The proposed amendments filed on August 5, 2019 to the Application for a Certificate of Public Convenience and Necessity to Operate as a Common Carrier by Motor

¹ 4 *Code of Colorado Regulations* (CCR) 723-1 of the Rules of Practice and Procedure.

² 4 CCR 723-6.

Vehicle for Hire (Application) filed by DNC Parks & Resorts at Rocky Mountain Park Inn, Inc., doing business as Ridgeline Tours (Ridgeline Tours) on May 6, 2019 are granted.

2. The Application is amended as set forth in paragraph 8 above.
3. The intervention filed by Estes Valley Transport, Inc. (EVT) on May 29, 2019 is withdrawn.
4. EVT is dismissed from this proceeding.
5. The Application, as amended as set forth in paragraph 8 above, is granted.
6. Ridgeline Tours is granted authority to operate as a common carrier by motor vehicle for hire as follows:

Transportation of
passengers in:

- (I) call-and-demand sightseeing service originating at the Ridgeline Hotel, 101 South St. Vrain Avenue, Estes Park, Colorado, to all points in Larimer County, State of Colorado, returning to the origination point; and,
- (II) call-and-demand charter service between all points in Larimer County, Colorado, and between said points, on the one hand, and all points in the State of Colorado, on the other hand.

RESTRICTIONS: This certificate is restricted:

- A. against providing any transportation service to or from the Denver International Airport; and
 - B. to service involving vehicles with a seating capacity of less than 15 passengers (excluding the driver).
7. Ridgeline Tours shall operate in accordance with all applicable Colorado law and Commission rules.

8. Ridgeline Tours shall not commence operation under the authority until it has complied with the requirements of Colorado law and Commission rules, 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. Ridgeline Tours 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 www.colorado.gov/pacific/dora/common-carriers and by following the transportation common and contract carrier links to tariffs); and
- d. paying the applicable issuance fee.

9. If Ridgeline Tours 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 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 Ridgeline Tours in writing when the Commission's records demonstrate compliance with paragraph 8.

11. Proceeding No. 19A-0232CP 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

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

Doug Dean,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

CONOR F. FARLEY

Administrative Law Judge