

Decision No. R19-0750

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 19A-0410CP-EXTENSION

IN THE MATTER OF THE APPLICATION OF BRECKDIRECT, LLC DOING BUSINESS AS PEAK 1 EXPRESS AND/OR PEAK ONE EXPRESS FOR A PERMANENT AUTHORITY TO EXTEND OPERATIONS UNDER CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY NO. 55937.

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

Mailed Date: September 12, 2019

I. STATEMENT

A. Background

1. On July 22, 2019, Breckdirect, LLC, doing business as Peak 1 Express and/or Peak One Express (Peak One Express) filed the application described in the caption above (Application).

2. On July 29, 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:

(I) passengers in scheduled service

between 100 Wulfson Road, Glenwood Springs, Colorado, and the Hanging Lake parking lot at Exit 125 of Interstate Highway 70, State of Colorado; and

(II) passengers in call-and-demand shuttle service originating in Glenwood Springs, Colorado, to, from, and between all points in the counties of Summit, Lake, Eagle, Pitkin, Garfield, Mesa, Delta, Gunnison, Chaffee and Park, up to 100 miles from the intersection of Grand Avenue and Interstate Highway 70 in Glenwood Springs, State of Colorado.

RESTRICTION:

Item (I) is restricted to service provided from May 1 through October 31 of each year.

3. On August 5, 2019, Peak One Express filed editorial changes to the Application.

The changes did not affect the scope of the authority sought in the Application.

4. On August 22, 2019, AEX, Inc. and San Miguel Mountain Ventures, LLC (Intervenors) filed an Intervention.

5. On September 4, 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 9, 2019, Intervenors filed a Notice of Withdrawal of Petition for Intervention pursuant to Rule 1309(d) of the Commission's Rules of Practice and Procedure.¹

B. Analysis

7. Because Intervenors have withdrawn their intervention, the Application, as revised by the amendment, is unopposed and, pursuant to § 40-6-109(5), C.R.S. and Rule 1403 of the Commission's Rules of Practice and Procedure,² will be considered under the modified procedure, without a formal hearing.

8. The Application establishes that Peak One Express is familiar with the Rules Regulating Transportation by Motor Vehicle and agrees to be bound by, and to comply with, those Rules.³ The Application and its supporting documentation establish that Peak One Express has or will have sufficient equipment with which to render the proposed service, and is

¹ 4 *Code of Colorado Regulations* (CCR) 723-1.

² 4 CCR 723-1.

³ 4 CCR 723-6.

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 is reasonable and in the public interest. For the foregoing reasons, the requested authority will be granted.

9. 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 Notice of Withdrawal of Petition for Intervention filed by AEX, Inc. and San Miguel Mountain Ventures, LLC on September 9, 2019 is acknowledged.

2. The Application of Breckdirect, LLC, doing business as Peak 1 Express and/or Peak One Express (Peak One Express) for Permanent Authority to Extend Operations Under Certificate of Public Convenience and Necessity No. 55937 is granted.

3. The authority under Certificate of Public Convenience and Authority No. 55937 is extended as follows:

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

- (I) passengers in scheduled service between 100 Wulfson Road, Glenwood Springs, Colorado, and the Hanging Lake parking lot at Exit 125 of Interstate Highway 70, State of Colorado; and
- (II) passengers in call-and-demand shuttle service originating in Glenwood Springs, Colorado, to, from, and between all points in the counties of Summit, Lake, Eagle, Pitkin, Garfield, Mesa, Delta, Gunnison, Chaffee and Park, up to 100 miles from the intersection of Grand Avenue and Interstate Highway 70 in Glenwood Springs, State of Colorado.

RESTRICTION:

Item (I) is restricted to service provided from May 1 through October 31 of each year.

4. Peak One Express shall operate in accordance with all applicable Colorado law and Commission rules.

5. Peak One Express 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. Peak One Express 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. <https://www.colorado.gov/pacific/dora/Trans-Tariffs> and by following the transportation common and contract carrier links to tariffs); and
- d. paying the applicable issuance fee.

6. If Peak One Express 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.

7. The Commission will notify Peak One Express in writing when the Commission's records demonstrate compliance with paragraph 5.

8. Proceeding No. 19A-0410CP-Extension is closed.

9. 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.

10. 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)



THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

CONOR F. FARLEY

Administrative Law Judge

ATTEST: A TRUE COPY

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

Doug Dean,
Director