

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 19A-0307CP

IN THE MATTER OF THE APPLICATION OF SATORI 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
ROBERT I. GARVEY
ACCEPTING AMENDMENT; DISMISSING
INTERVENTIONS; GRANTING
APPLICATION AMENDED UNDER MODIFIED
PROCEDURE; AND CLOSING PROCEEDING**

Mailed Date: September 30, 2019

I. STATEMENT

1. On May 31, 2019, Satori Tours LLC (Applicant or Satori) 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). Satori filed an Amendment to the Application on June 4, 2019, stating that it no longer seeks to provide scheduled service (Amended Application).

2. On June 3, 2019, the Commission provided public notice of the Amended 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 and call-and-demand sightseeing service

between all points in the Counties of Adams, Arapahoe, Boulder, Denver, Douglas, and Jefferson, State of Colorado, and between said points on the one hand, and all points in the Counties of El Paso, Gilpin, and Larimer, State of Colorado, on the other hand.

3. On June 5, 2019, Ramblin' Express, Inc. (Ramblin' Express) filed its Entry of Appearance and Notice of Intervention through its counsel, Charles Kimball. This filing attached Commission Authority Nos. 55787 and 47966 held by Ramblin' Express.

4. On June 6, 2019, Estes Valley Transport, LLC (Estes Valley) filed its Entry of Appearance and Notice of Intervention through its counsel, Charles Kimball. This filing attached Commission Authority No. 54696 held by Estes Valley.

5. On July 3, 2019, Aspire Tours (Aspire) filed its Entry of Appearance and Petition of Intervention through Kathrin Troxler, a co-owner owner of Aspire, and its counsel, Scott Dunbar. This filing attached Commission Authority No. 55865 held by Aspire.

6. On July 10, 2019, the Commission deemed the application complete and referred it to the undersigned Administrative Law Judge (ALJ) for disposition.

7. On July 19, 2019, by Decision No. R19-0804, a prehearing conference was scheduled for August 1, 2019, and Ramblin' Express, Estes Valley, and Aspire were granted intervenor status.

8. On August 1, 2019, the prehearing conference was held and the parties agreed to a procedural schedule.

9. On August 5, 2019, by Decision No. R19-0666-I, an evidentiary hearing was set for October 1, 2019.

10. On September 26, 2019, Satori filed its Unopposed Motion to Amend its Application (Unopposed Motion). In the Unopposed Motion Satori states, that if the amendment is approved, the Intervenors shall withdraw their interventions.

11. Under the amendment, the restrictively amended authority will read:

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

passengers in call-and-demand charter

between all points in the Counties of Adams, Arapahoe, Boulder, Denver, Douglas, and Jefferson, State of Colorado, and between said points on the one hand, and all points in the Counties of El Paso, and Larimer, State of Colorado, on the other hand.

And

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

passengers in sight seeing service

between all points in the County of Denver, State of Colorado.

RESTRICTION:

The authority is restricted against providing transportation service between Denver International Airport and the county of Larimer.

12. To be acceptable, restrictions must be restrictive in nature, clear and understandable, and administratively enforceable. Both the authority and any restriction on that authority must be unambiguous and must be contained wholly within the permit. Both must be worded so that a person will know, from reading the permit and without having to resort to any other document, the exact extent of the authority and of each restriction. Clarity is essential because the scope of an authority must be found within the four corners of the permit, which is the touchstone by which one determines whether the operation of a contract carrier is within the scope of its Commission-granted authority. The proposed amendment to the Application meets these standards.

13. The ALJ finds and concludes that the proposed amendment is restrictive in nature, is clear and understandable, and is administratively enforceable.

14. The restriction to the authority sought by Applicant (*i.e.*, the amendment to the Application) will be accepted.

15. Accepting the amendment to the Application has two impacts. First, the authority sought will be amended to conform to the restrictive amendment. Second, the interventions of the Intervenors will be withdrawn.

16. Withdrawal of the intervention and dismissal of the Intervenors leaves the Application, as amended, uncontested. Pursuant to § 40-6-109(5), C.R.S., and Rule 1403 of the Rules of Practice and Procedure, 4 *Code of Colorado Regulations* (CCR) 723-1, the uncontested Application may be processed under the modified procedure, without a formal hearing.

17. In accordance with § 40-6-109, C.R.S., the ALJ now transmits to the Commission the record in this proceeding along with a written recommended decision

II. FINDINGS AND CONCLUSIONS

18. Applicant is a limited liability company in good standing.

19. Applicant requests authority to begin operations as a common carrier.

20. The verified Application establishes that Applicant is familiar with the Rules Regulating Transportation by Motor Vehicle, 4 CCR 723-6, and agrees to be bound by, and to comply with, those rules. The verified Application and its supporting documentation establish that Applicant has sufficient equipment with which to render the proposed service and is financially fit to conduct operations under the authority requested. Finally, review of the verified Application indicates a need for the proposed service. Therefore, because the Applicant is fit, financially and otherwise, to perform the proposed service and because the other prerequisites have been met, the authority should be granted.

21. The ALJ shall *sua sponte* waive response time to the Unopposed Motion.

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

III. ORDER

A. The Commission Orders That:

1. The Unopposed Motion to Amend its Application, filed by, Satori Tours LLC on September 26, 2019 is granted.

2. The verified Application for a Certificate of Public Convenience and Necessity to Operate as a Common Carrier of Passengers by Motor Vehicle filed on May 31, 2019 is amended consistent with the discussion above.

3. The evidentiary hearing scheduled for October 1, 2019 is vacated.

4. The interventions filed by Aspire Tours, LLC, Estes Valley Transport, LLC, and Ramblin' Express, Inc. are withdrawn and they are dismissed from the proceeding.

5. Satori Tours LLC, is granted a Certificate of Public Convenience and Necessity to Operate as a Common Carrier of Passengers by Motor Vehicle as follows:

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

passengers in call-and-demand charter

between all points in the Counties of Adams, Arapahoe, Boulder, Denver, Douglas, and Jefferson, State of Colorado, and between said points on the one hand, and all points in the Counties of El Paso, and Larimer, State of Colorado, on the other hand.

And

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

passengers in sight seeing service

between all points in the County of Denver, State of Colorado.

RESTRICTION:

The authority is restricted against providing transportation service between Denver International Airport and the county of Larimer

6. Satori Tours LLC shall operate in accordance with all applicable Colorado laws and Commission rules.

7. Satori Tours LLC shall not commence operation under the extended 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, Satori Tours LLC 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 dora.colorado.gov/puc and by following the transportation common and contract carrier links to tariffs); and
- (d) paying the applicable issuance fee.

8. If Satori Tours LLC 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 Permit 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.

9. The Commission will notify Satori Tours LLC in writing when the Commission's records demonstrate compliance with paragraph 7.

10. Proceeding No. 19A-0307CP is closed.

11. 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.

12. As provided by § 40-6-106, C.R.S., copies of this Recommended Decision shall be served upon the parties, who may file exceptions to it.

13. If no exceptions are filed within 20 days after service or within any extended period of time authorized, or unless the recommended 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.

14. If a party seeks to amend, modify, annul, or reverse a basic finding 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.

15. 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

ROBERT I. GARVEY

Administrative Law Judge

ATTEST: A TRUE COPY

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

Doug Dean,
Director