

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 19A-0647CP-EXTENSION

IN THE MATTER OF THE APPLICATION OF CKIMY LLC DOING BUSINESS AS ILIMO
FOR PERMANENT AUTHORITY TO EXTEND OPERATIONS UNDER CERTIFICATE OF
PUBLIC CONVENIENCE AND NECESSITY NO. 55931.

**RECOMMENDED DECISION OF
ADMINISTRATIVE LAW JUDGE
ROBERT I. GARVEY
ACCEPTING AMENDMENT;
DISMISSING INTERVENTION; GRANTING
APPLICATION AMENDED UNDER MODIFIED
PROCEDURE; AND CLOSING PROCEEDING**

Mailed Date: March 11, 2020

I. STATEMENT

1. On November 15, 2019, Ckimy LLC, doing business as ilimo (Applicant or ilimo) initiated the captioned proceeding by filing an application seeking authority to extend operations under Certificate of Public Necessity and Convenience (CPCN) No. 55931 (Application) with the Colorado Public Utilities Commission (Commission).

2. On November 25, 2019, the Commission provided public notice of the application to extend the permit by publishing a summary of the same in its Notice of Applications Filed:

Currently, CPCN No. 55931 authorizes the following:

Transportation of

passengers in call-and-demand shuttle

(I) between all points in the City and County of Denver, State of Colorado;
and

(II) between all points in the City and County of Denver, on the one hand, and
all points in the Counties of El Paso, Jefferson, and Larimer, State of
Colorado, on the other hand.

If the extension is granted, CPCN No. 55931 will read:

Transportation of

passengers in call-and-demand shuttle service

between all points in the Counties of Denver, El Paso, Jefferson, and Larimer,
State of Colorado.

3. On December 6, 2019, Estes Valley Transport, Inc. (Estes Valley) filed its Intervention and Entry of Appearance through its counsel, Charles J. Kimball. That filing attached Commission Authority No. 54696 held by Estes Valley.

4. On January 2, 2020, the Commission deemed the application complete and referred it to an undersigned Administrative Law Judge (ALJ) for disposition.

5. On January 10, 2020, by Decision No. R20-0025-I, a prehearing conference was scheduled for February 4, 2020.

6. On January 30, 2020, ilimo filed its Response in opposition to the Intervention of Estes Valley Transport (Response). In the Response, ilimo argued that Estes Valley had not met all of the requirements for intervening in the above captioned proceeding.

7. At the February 4, 2020 prehearing conference, the ALJ construed the Response to be a Motion to Strike the intervention of Estes Valley. After argument the Response/Motion to Strike was denied.

8. On February 6, 2020, by Decision No. R20-0082-I, a procedural schedule was adopted that set an evidentiary hearing for April 16, 2020.

9. On March 6, 2020 the Applicant filed its Joint Motion to Approve Settlement; Amend Application; Dismiss Intervention and Waiver of Response Time (Joint Motion). In the Joint Motion, Applicant states that, if the stipulation is approved, the Intervenor shall withdraw its intervention.

10. Under the stipulation, the restrictively amended authority will read:

If the extension is granted, CPCN No. 55931 will read:

Transportation of

passengers in call-and-demand shuttle service

between all points in the Counties of Denver, El Paso, Jefferson, and Larimer, State of Colorado.

RESTRICTIONS:

- (1) between points within 10 miles of the U.S. 34 and 36 intersection in Estes Park and
- (2) between points on the one hand and Larimer County points within 75 miles of that intersection, on the other hand

11. 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.

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

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

14. 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 Intervenor will be withdrawn.

15. Withdrawal of the intervention and dismissal of the Intervenor 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.

II. FINDINGS AND CONCLUSIONS

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

17. Applicant requests authority to extend operations as a common carrier.

18. 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.

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

III. **ORDER**

A. It Is Ordered That:

1. The evidentiary hearing in this proceeding scheduled for April 16, 2020 is vacated.

2. The verified Application to Extend Operations under Certificate of Public Convenience and Necessity No. 55931 as a Common Carrier of Passengers by Motor Vehicle is amended consistent with the discussion above.

3. The intervention filed by Estes Valley Transport, Inc. is withdrawn and they are dismissed from the proceeding.

4. Ckimy LLC, doing business as ilimo (ilimo), is granted an extension of Certificate of Public Convenience and Necessity No. 55931 to Operate as a Common Carrier of Passengers by Motor Vehicle as follows:

Transportation of

passengers in call-and-demand shuttle service

between all points in the Counties of Denver, El Paso, Jefferson, and Larimer, State of Colorado.

RESTRICTIONS:

(1) between points within 10 miles of the US 34 and 36 intersection in Estes Park and

(2) between points on the one hand and Larimer County points within 75 miles of that intersection, on the other hand

5. Applicant ilimo shall operate in accordance with all applicable Colorado laws and Commission rules.

6. Applicant ilimo 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, ilimo 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.

7. If ilimo, 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.

8. The Commission will notify ilimo in writing when the Commission's records demonstrate compliance with paragraph 6.

9. Proceeding No. 19A-0647CP-Extension is closed.

10. 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.

11. 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.

12. 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.

13. 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.

14. 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.

15. 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