

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 11A-1009CP-LEASE-TA

IN THE MATTER OF THE APPLICATION OF THE BROADMOOR HOTEL, INC., DOING BUSINESS AS BROADMOOR HOTEL GARAGE, FOR TEMPORARY APPROVAL TO LEASE CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY PUC NO. 275 TO COLORADO TOUR LINE, DOING BUSINESS AS GRAY LINE OF DENVER.

**COMMISSION ORDER GRANTING
TEMPORARY APPROVAL**

Mailed Date: January 6, 2012
Adopted Date: January 4, 2012

I. BY THE COMMISSION

A. Statement

1. On December 15, 2011, the Broadmoor Hotel, Inc., doing business as the Broadmoor Hotel Garage (The Broadmoor) and Colorado Tour Line, LLC, doing business as Gray Line of Denver (Gray Line), jointly filed a verified application for temporary approval to allow Gray Line to assume operational control of Certificate of Public Convenience and Necessity (CPCN) PUC No. 275 pending Commission consideration of the related application to permanently lease the certificate. On December 23, 2011, a supplement to the application was filed.

2. The Commission gave notice of the application on December 19, 2011.

3. There are no interventions opposing a grant of the application.

4. Pursuant to § 40-10.1-204(2), C.R.S., the Commission may grant temporary approval of a lease “if it appears that failure to grant such temporary approval may result in destruction of or injury to the carrier or its properties sought to be acquired, or may

interfere substantially with their future usefulness in the performance of adequate and continuous service to the public.”

B. Findings of Fact

5. Gray Line is a limited liability company in good standing with the Secretary of State and provides common carrier passenger transportation service pursuant to CPCN PUC No. 55716 and charter scenic bus service pursuant to Permit No. CSB-120.

6. The Broadmoor and Gray Line have jointly filed a related application for permanent authority to lease CPCN PUC No. 275 to Gray Line. The term of the lease will be for a period of five years, beginning on February 1, 2012 and ending at midnight on December 31, 2016.

7. The Commission has previously authorized The Broadmoor to lease CPCN PUC No. 275 to Ramblin’ Express, Inc., doing business as Rocky Mountain Limousine, Inc. (Ramblin’ Express). By Decision No. C09-1291, Docket No. 09A-684CP-LEASE issued November 17, 2009, the Commission approved the lease of CPCN PUC No. 275 to Ramblin’ Express from January 1, 2010 through December 31, 2014. The application currently before the Commission states that Ramblin’ Express has agreed to terminate this lease effective February 1, 2012 and includes a letter from James B. Flood, The Broadmoor’s Director of Finance, to Todd Holland, the president of Ramblin’ Express, confirming the mutual agreement to terminate the lease with Ramblin’ Express effective at midnight on January 31, 2012. In addition, on December 30, 2011, Ramblin’ Express filed with the Commission, an advice letter and cancelled tariff, which terminate the lease related to CPCN PUC No. 275 effective February 1, 2012.

8. In support of the temporary authority application, the applicants state that “[g]ranting this application for temporary approval of the new lease agreement would allow continued, reliable transportation service needs of the traveling public that rely upon service under [CPCN PUC No. 275].” Moreover, the application includes the requisite copy of the lease agreement and a sufficient statement of fact and fitness of the lessee.

C. Conclusions

9. The Commission finds that a failure to grant temporary approval of an assumption of operational control could result in injury to CPCN PUC No. 275 and ultimately affect service to the public.

10. Gray Line has adequate equipment and financial resources to begin immediate service within the scope of the authority sought.

11. This application for temporary approval is in the public interest and will be granted.

12. The Broadmoor and Gray Line are advised that the grant of temporary approval of an assumption of operational control creates no presumption that permanent lease approval will be granted.

II. ORDER

A. The Commission Orders That:

1. The joint application filed by the Broadmoor Hotel, Inc., doing business as the Broadmoor Hotel Garage, and Colorado Tour Line, LLC, doing business as Gray Line of Denver, for temporary approval to allow Colorado Tour Line, LLC, doing business as Gray Line of Denver, to assume operational control of Certificate of Public Convenience and Necessity PUC No. 275 is granted.

2. Colorado Tour Line, LLC, doing business as Gray Line of Denver, is granted temporary approval to assume operational control of Certificate of Public Convenience and Necessity PUC No. 275 for a period of 180 days commencing on February 1, 2012.

3. Colorado Tour Line, LLC, doing business as Gray Line of Denver, shall operate in accordance with all applicable Commission rules and regulations.

4. Colorado Tour Line, LLC, doing business as Gray Line of Denver, shall not assume operational control until it has:

- (a) caused proof of insurance (Form E or self-insurance) or surety bond (Form G) coverage to be filed with the Commission in accordance with applicable rules;
- (b) paid to the Commission, the motor vehicle fee (\$5) 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) filed an adoption notice that adopts as its own the currently effective tariff of the Broadmoor Hotel, Inc., doing business as the Broadmoor Hotel Garage;
- (d) paid the applicable issuance fee (\$5); and,
- (e) received notice in writing from the Commission that it is in compliance with the above requirements and may begin service.

5. If Colorado Tour Line, LLC, doing business as Gray Line of Denver, does not comply with the requirements of this Order within 30 days of its effective date, then the temporary approval shall be void. For good cause shown, the Commission may grant additional time for compliance if the request for additional time is filed within the 30 days.

6. The 20-day time period provided by § 40-6-114(1), C.R.S., to file an application for rehearing, reargument, or reconsideration shall begin on the first day after the Commission mails or serves this Order.

7. This Order is effective on its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
January 4, 2012.**

(S E A L)



ATTEST: A TRUE COPY

Doug Dean,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

JAMES K. TARPEY

MATT BAKER

Commissioners

CHAIRMAN JOSHUA B. EPEL ABSENT.