

Decision No. R20-0042-I

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 19A-0646CP-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. 55822.

**INTERIM DECISION OF
ADMINISTRATIVE LAW JUDGE
ROBERT I. GARVEY
DISMISSING INTERVENTIONS,
AMENDING AUTHORITY, AND
VACATING PREHEARING CONFERENCE**

Mailed Date: January 21, 2020

I. STATEMENT

1. On November 15, 2019, Ckimy LLC, doing business as ilimo (ilimo) initiated the captioned proceeding by filing an application seeking authority to extend operations under Certificate of Public Necessity and Convenience (CPCN) No. 55822 (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. 55822 authorizes the following:

(A) Transportation of

passengers in call-and-demand shuttle and charter service

between all points in the Counties of Adams, Arapahoe, Denver, Douglas, and Jefferson, State of Colorado, on the one hand, and all points in the Counties of Clear Creek, Eagle, Grand, and Summit, State of Colorado, on the other hand.

RESTRICTIONS: This authority is restricted:

- (1) against providing transportation service to or from Denver International Airport, Denver, Colorado;
- (2) against originating or terminating transportation service at points within the area in downtown Denver defined as follows: beginning at the intersection of 15th Street and Blake Street, then northeast along Blake Street to 18th Street; then southeast along 18th Street to Broadway; then south along Broadway to Colfax Avenue; then west along Colfax Avenue to 15th Street; then northwest along 15th Street to the point of beginning;
- (3) against originating or terminating transportation service at points within a [one] and one-half mile radius of the Denver West Marriott, 1717 Denver West Marriott Boulevard, Golden, Colorado; and
- (4) to the use of vehicles with a minimum seating capacity of 12 passengers.

(B) Transportation of

passengers in call-and-demand shuttle service

between all points in the Counties of Adams, Arapahoe, Denver, and Douglas, State of Colorado, on the one hand, and 18300 West Alameda Parkway, Red Rocks Park and Amphitheater, Morrison, Colorado, on the other hand.

RESTRICTIONS: This authority is restricted:

- (1) against providing transportation service to or from Denver International Airport, Denver, Colorado; and
- (2) to the use of vehicles with a minimum seating capacity of no less than 15 passengers.

If the extension is granted, CPCN No. 55822 will read:

(A) Transportation of

passengers in call-and-demand shuttle and charter service

between all points in the Counties of Adams, Arapahoe, Denver, Douglas, Jefferson, Clear Creek, Eagle, Grand, and Summit, State of Colorado.

(B) Transportation of passengers in call-and-demand shuttle service

between all points in the Counties of Adams, Arapahoe, Denver, and Douglas, State of Colorado, on the one hand, and 18300 West Alameda Parkway, Red Rocks Park and Amphitheater, Morrison, Colorado, on the other hand.

3. On December 9, 2019, Home James Transportation Services, LTD (Home James) filed its Intervention and Entry of Appearance through its counsel, Mark T. Valentine. This filing attached Commission Authority No. 16114 held by Home James.

4. On December 20, 2019, Aspire Tours (Aspire) filed its Petition of Intervention and Entry of Appearance through Kathrin Troxler, a co-owner owner of Aspire, and its counsel, Scott Dunbar. This filing states that Commission Authority No. 55865 held by Aspire is attached to its Intervention; however, Commission Authority No. 55865 is neither attached nor filed separately as an exhibit to the Intervention.

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

6. On January 13, 2020 by Decision No. R20-0024-I, a prehearing conference was scheduled for February 4, 2020.

7. On January 15, 2020, Aspire filed its Notice of Withdrawal of Intervention.

8. On January 15, 2020, Home James filed its Stipulation and Conditional Withdrawal of Intervention (Stipulation). In the Stipulation, Home James states that if the stipulation is approved, the Intervenors shall withdraw their interventions.

9. Under the Stipulation, the restrictively amended authority will read:
- (I) Transportation of passengers in call-and-demand shuttle and charter service between all points in the Counties of Adams, Arapahoe, Denver, Douglas, Jefferson, Clear Creek, Eagle, and Summit, State of Colorado;
 - (II) Transportation of passengers in call-and-demand shuttle and charter service between all points in the Counties of Adams, Arapahoe, Denver, Douglas, and Jefferson, State of Colorado on the one hand, and all points in Grand County, State of Colorado on the other hand;
 - (III) Transportation of passengers in call and demand shuttle service between all points in the Counties of Adams, Arapahoe, Denver and Douglas, State of Colorado and 18300 West Alameda Parkway, Red Rocks Park and Amphitheater, Morrison, Colorado on the other hand.

RESTRICTIONS: Item II is restricted:

- (A) against providing service between points in Grand County;
- (B) against providing service to or from Denver International Airport; and,
- (C) to the use of vehicles with a minimum seating capacity of no less than twelve (12) passengers.

10. 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.

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

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

13. 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.

14. Withdrawal of the interventions 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.

15. 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

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 prehearing conference in this proceeding scheduled for February 4, 2020 is vacated.

2. The verified Application to Extend Operations under Certificate of Public Convenience and Necessity No. 55822 as a Common Carrier of Passengers by Motor Vehicle is amended consistent with the discussion above.

3. The interventions filed by Home James Transportation Services, LTD and Aspire Tours are 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. 55822 to Operate as a Common Carrier of Passengers by Motor Vehicle as follows:

- (I) Transportation of passengers in call-and-demand shuttle and charter service between all points in the Counties of Adams, Arapahoe, Denver, Douglas, Jefferson, Clear Creek, Eagle, and Summit, State of Colorado;

(II) Transportation of passengers in call-and-demand shuttle and charter service between all points in the Counties of Adams, Arapahoe, Denver, Douglas, and Jefferson, State of Colorado on the one hand, and all points in Grand County, State of Colorado on the other hand;

(III) Transportation of passengers in call and demand shuttle service between all points in the Counties of Adams, Arapahoe, Denver and Douglas, State of Colorado and 18300 West Alameda Parkway, Red Rocks Park and Amphitheater, Morrison Colorado on the other hand.

RESTRICTIONS: Item II is restricted:

- (A) against providing service between points in Grand County;
- (B) against providing service to or from Denver International Airport; and,
- (C) to the use of vehicles with a minimum seating capacity of no less than twelve (12) passengers.

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-0646CP-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.

(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