

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 24A-0166CP

IN THE MATTER OF THE APPLICATION OF GOOD MOUNTAIN ADVENTURES LLC FOR
A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE AS A
COMMON CARRIER BY MOTOR VEHICLE FOR HIRE.

**RECOMMENDED DECISION
DISMISSING APPLICATION WITHOUT PREJUDICE**

Issue Date: July 19, 2024

I. STATEMENT AND PROCEDURAL HISTORY

A. Statement and Procedural History¹

1. On April 4, 2024, Applicant Good Mountain Adventures LLC (“Good Mountain” or “Applicant”) initiated this matter by filing the above-captioned Application (“Application”) seeking a Certificate of Public Convenience and Necessity to operate as a common carrier by motor vehicle for hire for the transportation of passengers in call-and-demand shuttle and charter service between all points in the following Colorado counties: Eagle, Pitkin, Grand, Chaffee, Summit, Park, Fremont, Teller, El Paso, Pueblo, Douglas, Jefferson, Clear Creek, Gilpin, Boulder, Larimer, Denver, Arapahoe, Weld, Broomfield, Adams, Lake, and Routt.²

2. On April 8, 2024, the Public Utilities Commission (“the Commission”) provided public notice of the Application, per § 40-6-108(2), C.R.S.³

3. In addition to Applicant, the following entities are parties to this Proceeding: CKIMY, LLC, doing business as iLIMO; Aspire Tours, LLC; Mountain Star Transportation LLC,

¹ Only the procedural history necessary to understand this Decision is included.

² Application at 4. *See* Notice of Applications and Petitions filed April 8, 2024 (Notice) at 2.

³ *See* Notice at 2.

doing business as Explorer Tours; Pikes Peak Cab LLC, doing business as Pikes Peak Transport; Ullr Tours, LLC, doing business as the Colorado Sightseer; and Denvers Airport Transportation, LLC.⁴

4. On May 15, 2024, the Commission deemed the Application complete and referred the matter to an Administrative Law Judge (ALJ) for disposition by minute entry.

5. After holding a duly noticed prehearing conference, on June 18, 2024, the ALJ scheduled a remote evidentiary hearing for September 6 and 9, 2024; established deadlines and procedures relating to that hearing; and dismissed Interventions filed by Colorado Jeep and Off Road Tours, Inc.; Five Nineteen LLC, doing business as Fresh Tracks Transportation; and Tava Cab. LLC, doing business as Tava Cab.⁵

6. On July 16, 2024, Good Mountain made a filing stating that it wishes to voluntarily withdraw its Application and requesting that its Application be dismissed without prejudice (“Withdrawal”).

II. FINDINGS, ANALYSIS, AND CONCLUSIONS

7. As relevant here, Rule 1309(d) of the Commission’s Rules of Practice and Procedure, 4 *Code of Colorado Regulations* (“CCR”) 723-1, allows a party to withdraw an application upon notice to the Commission and all parties “prior to 45 days before the first day of hearing.”⁶ Thereafter, a party has to file a motion seeking leave to withdraw an application; in ruling on such a motion, the Commission must consider whether good cause exists to withdraw the application and whether other parties would be prejudiced by this.⁷

⁴ See Decision Nos. R24-0365-I at 21 (mailed May 30, 2024) and R24-0423-I at 5-6 and 12 (mailed June 18, 2024).

⁵ Decision No. R24-0423-I at 5-6 and 12. See Decision No. R24-0365-I at 23.

⁶ Rule 1309(d), 4 CCR 723-1.

⁷ *Id.*

8. As an initial matter, since all interveners oppose the Application and request that it be denied, the ALJ finds that it is unlikely any party objects to the Withdrawal. For these reasons, the ALJ finds good cause to waive the response time to the Withdrawal and does so.⁸

9. The Withdrawal states that after careful consideration, Good Mountain has decided to withdraw its Application due to recent operational changes (among other personal circumstances).⁹ Good Mountain also states that it wishes to minimize the inconvenience on all parties, and requests communication on any steps necessary to complete its withdrawal.¹⁰

10. Given that the Withdrawal was filed more than 45 days before the first day of the hearing, per Rule 1309(d), Applicant is not required to show good cause for its Withdrawal or establish that Withdrawal does not prejudice other parties.¹¹ As a result, the ALJ treats the Withdrawal as a notice of withdrawal. For the reasons and authorities discussed, the ALJ acknowledges that Good Mountain has withdrawn its Application; dismisses the Application without prejudice; and closes this Proceeding.¹²

11. In accordance with § 40-6-109, C.R.S., the ALJ transmits to the Commission the record in this proceeding and recommends that the Commission enter the following order.

⁸ See Rule 1400(b), 4 CCR 723-1.

⁹ Withdrawal at 1.

¹⁰ *Id.*

¹¹ See *id.*

¹² Dismissal without prejudice means that Good Mountain may file a new application seeking the same or similar relief as the Application here.

III. ORDER

A. The Commission Orders That:

1. Consistent with the above discussion, the response time to Good Mountain Adventures LLC's ("Good Mountain") July 16, 2024 filing withdrawing the above-captioned Application is waived.

2. Good Mountain's withdrawal of its Application for a Certificate of Public Convenience and Necessity to Operate as a Common Carrier by Motor Vehicle for Hire filed on April 4, 2024 ("Application") is acknowledged.

3. Good Mountain's Application is dismissed without prejudice.

4. Proceeding No. 24A-0166CP is closed.

5. 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.

6. 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.

7. If no exceptions are filed within 20 days after service or within any extended period of time authorized, or unless this Recommended Decision is stayed by the Commission upon its own motion, this Recommended Decision shall become the decision of the Commission and subject to the provisions of § 40-6-114, C.R.S.

8. 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.

9. If exceptions to this Recommended Decision are filed, they may not exceed 30 pages in length, unless the Commission for good cause shown permits this limit to be exceeded.

(S E A L)



ATTEST: A TRUE COPY

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

MELODY MIRBABA

Administrative Law Judge

Rebecca E. White,
Director