

Decision No. C24-0626

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 24A-0075CP-TA

IN THE MATTER OF THE APPLICATION OF SUMMIT EXPRESS LLC, FOR TEMPORARY
AUTHORITY TO OPERATE AS A COMMON CARRIER BY MOTOR VEHICLE FOR HIRE.

**COMMISSION DECISION GRANTING, IN PART,
AMENDED MOTION TO EXTEND TEMPORARY
AUTHORITY AND WAIVE RESPONSE TIME**

Issued Date: August 29, 2024

Adopted Date: August 28, 2024

I. BY THE COMMISSION

A. Statement

1. On August 26, 2024, Summit Express, LLC (“Summit Express”) filed an Amended Motion to Extend Temporary Authority and Request for Waiver of Response Time (“Motion”) requesting extension the temporary authority issued in Decision No. C24-0130 to operate as a call-and-demand shuttle service to transport passengers between Summit County and Eagle County. Through the Motion, Summit Express states it has been operating under this temporary authority since March 2024. Summit Express indicates that, pursuant to § 40-10.1-204, C.R.S., the temporary authority will expire on August 28, 2024, and therefore requests extension until a final administrative decision is rendered on its application for permanent authority. By this Decision, the Commission finds good cause to waive response time to the Motion and extend the temporary call-and-demand shuttle service authority granted by Decision No. C24-0130 for the lesser of 180 days or until a final decision is rendered in Proceeding No. 24A-0362CP.

B. Discussion

2. Summit Express states, pursuant to § 40-10.1-204, C.R.S., the Commission may extend a grant of temporary authority until a final decision is rendered, for good cause shown. Summit Express explains that it is seeking extension of only one part of the authority granted in Decision No. C24-0130. There, the Commission granted temporary authority for both:

- (I) Transportation of passengers in scheduled service, between 140 Ida Belle Road, Keystone, Colorado, on the one hand, and on the other hand, the following locations in Breckenridge, Colorado: (1) Marriott Mountain Valley Lodge, 655 Columbine Drive; (2) Main Street Station, 505 South Main Street; (3) Valdora Mountain Lodge, 500 Village Road; (4) Lodge at Breckenridge, 112 Overlook Drive; and (5) Grand Lodge Peak 7, 1979 Ski Hill Road (“Temporary Authority I”); and
- (II) Transportation of passengers, in call-and-demand shuttle service, between all points in the County of Summit, State of Colorado, and between said points, on the one hand, and all points in the County of Eagle, State of Colorado, on the other hand (“Temporary Authority II”).

3. On August 23, 2024, Summit Express filed a motion to extend only its Temporary Authority II, which is set to expire on August 28, 2024. Summit Express requests that this authority be extended temporarily until a final decision is rendered in its permanent authority application proceeding. On August 26, 2024, Summit Express filed an amended motion correcting certain errors, and explains that it filed an Application for Permanent Authority concurrent with its amended motion.¹

4. Because Summit Express’ Motion is uncontested and is submitted only two days before the expiration of its initial temporary authority, it requests the Commission waive response time to the Motion. Summit Express maintains good cause exists to extend the Temporary Authority II because the authority was granted in a prior decision and an extension will prevent a discontinuance of a needed service within the Summit and Eagle Counties.

¹ The Application for Permanent Authority has been assigned Proceeding No. 24A-0362CP.

C. Findings and Conclusions

5. Section 40-10.1-204(1), C.R.S., authorizes the Commission to extend temporary authority beyond the initial 180-day grant of such authority. Such an extension may, upon good cause shown, be granted until the corresponding permanent authority application is final. In construing the “good cause” standard in this statute, the Commission has previously focused on whether members of the traveling public are using the temporary service provided and, if so, would likely be inconvenienced by a discontinuance of that service. The Commission has also acknowledged the 180-day period authorized by the statute may not always provide sufficient time to finalize the corresponding permanent application.

6. Summit Express delayed the filing of its permanent authority application until August 26, 2024, such that it must now request a prolonged extension. This is unfortunate. Issuance of temporary authority under § 40-10.1-204, C.R.S., is a remedy intended to serve the public interest by providing a mechanism for carriers to provide needed service while their permanent authority application is adjudicated. It is generally expected these processes run concurrently. The 180-day temporary authority time period in statute allows for approximately the time needed to complete the adjudicatory process and render a decision regarding permanent authority. Here, we have some concern that Summit Express did not use the time allowed for its initial temporary authority to meaningfully progress with its application for permanent authority.

7. Despite these concerns with Summit Express’ delay in filing for permanent authority, we find the public interest weighs in favor of granting the requested relief. In this circumstance, we can identify no potential harm that outweighs the benefit of allowing continuity in the provision of transportation service for this community. Summit Express indicates no protests were filed to the temporary authority application and emphasizes that an extension here merely

maintains the status quo. In the initial temporary authority application, Summit Express provided letters of support indicating its transportation service is needed to safely shuttle passengers in Summit County to and from ski areas in Eagle County and that no other shuttle or bus service is available.

8. For these reasons, the Commission finds Summit Express has shown good cause to waive response time to its Motion and extend the Temporary Authority II granted by Decision No. C24-0130 for the lesser of 180 days or until a final decision is rendered in the proceeding to consider Summit Express' application for permanent authority.

II. ORDER

A. The Commission Orders That:

1. The temporary authority granted to Summit Express, LLC by Decision No. C24-0130 is extended for the lesser of 180 days from the Issued Date of this decision or until a final decision is rendered in Proceeding No. 24A-0362CP, consistent with the discussion above.

2. 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 issues this Decision.

3. This Decision is effective immediately on its Issued Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
August 28, 2024.**

(S E A L)



ATTEST: A TRUE COPY

Rebecca E. White,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

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MEGAN M. GILMAN

TOM PLANT

Commissioners