

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 24A-0532CP

IN THE MATTER OF THE APPLICATION OF COLORADO YETI TOURS LLC DOING BUSINESS AS COLORADO YETI TOURS FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE AS A COMMON CARRIER BY MOTOR VEHICLE FOR HIRE.

**RECOMMENDED DECISION
AFFIRMING ADMINISTRATIVE LAW JUDGE'S
PROPOSED LANGUAGE, GRANTING MOTIONS TO
AMEND APPLICATION, ACKNOWLEDGING
INTERVENTION WITHDRAWALS, AND GRANTING
PERMANENT AUTHORITY SUBJECT TO CONDITIONS**

Issued Date: March 31, 2025

I. STATEMENT, SUMMARY AND PROCEDURAL HISTORY

A. Summary

1. This Decision affirms the Administrative Law Judge's ("ALJ") language as set forth in decision number R25-0158-I; grants two motions to amend the above-captioned Application for New Permanent Authority to Operate as a Common Carrier of Passengers by Motor Vehicle for Hire ("Application"); acknowledges Intervenors' withdrawal of their Interventions; and grants a permanent authority, subject to conditions.

B. Procedural History

2. On December 5, 2024, Colorado Yeti Tours LLC doing business as Colorado Yeti Tours ("Yeti") the application described in the caption above ("Application"). Yeti filed an amendment to question 10 on the Application on December 12, 2024.

3. On December 16, 2024, the Commission issued public notice of the authority sought by Yeti in the Application as follows:

For authority to operate as a common carrier by motor vehicle for hire for the transportation of passengers in call-and-demand sightseeing service between all points in the Counties of El Paso, Fremont, and Teller. This application is restricted as follows: all tours will originate and terminate from the same location in El Paso County.

4. On December 23, 2024, Colorado Jeep and Off Road Tours, Inc. (“Colorado Jeep”) filed a Petition for Intervention and Entry of Appearance (“Colorado Jeep Intervention”), including its Letter of Authority. Colorado Jeep claimed it was entitled to intervention of right. The ALJ acknowledged Colorado Jeep’s intervention of right in Decision No. R25-0096-I in Proceeding No. 24A-0541CP.

5. On January 15, 2025, Marketing Services Inc. of Pueblo (“Marketing Services”) filed an Entry of Appearance and Petition for Intervention, including its Letter of Authority. Marketing Services claimed it was entitled to intervention of right. The ALJ acknowledged Marketing Services’ intervention of right in Decision No. R25-0096-I.

6. On January 22, 2025, the Commission deemed the Application complete and referred the proceeding by minute entry to an ALJ.

7. On February 12, 2025, Applicant filed a “Stipulated Motion to Restrictively Amend Application and Withdraw Intervention” (“First Stipulated Motion”). Marketing Services consented to the First Stipulated Motion. Yeti did not include the required conferral statement in the First Stipulated Motion, so the ALJ did not know Colorado Jeep’s position.¹ Accordingly, Colorado Jeep had 14 days to respond to the motion.²

¹ Rule 1400(a) of the Commission’s Rules of Practice and Procedure, 4 *Code of Colorado Regulations* (“CCR”) 723-1.

² Rule 1400(b), 4 CCR 723-1.

8. On February 14, 2025, Applicant filed a “Second Stipulated Motion to Restrictively Amend Application and Withdraw Intervention” (“Second Stipulated Motion”). Colorado Jeep consented to the Second Stipulation Motion. Yeti did not include the required conferral statement in the Second Stipulation Motion, so the ALJ did not know Marketing Services’ position.³ Accordingly, Marketing Services had 14 days to respond to the motion.⁴

9. On March 6, 2025, the ALJ issued Decision No. R25-0158-I, which set forth the ALJ’s understanding of the parties’ application language as set out in the First and Second Stipulated Motion. The ALJ gave the parties 14 days to make any proposed corrections or amendments to the ALJ’s language.

10. No party filed any revisions to the ALJ March 6, 2025, language.

II. FINDINGS AND CONCLUSIONS

A. Requests to Amend Application

11. The First and Second Stipulated Motion seek to clarify the authority Yeti seeks in the Application. As amended by the ALJ in Decision No. R25-0158-I (“Amended Application”), the Amended Application’s requested authority is as follows (“Proposed Amendments”):

Transportation of passengers in call-and demand sightseeing service between all points in the Counties of El Paso, Fremont, and Teller, State of Colorado.

RESTRICTIONS:

(I) Against sightseeing service originating and terminating in the Counties of Fremont and Teller.

(II) Against operating more than two vehicles at any one time.

³ Rule 1400(a), 4 CCR 723-1.

⁴ Rule 1400(b), 4 CCR 723-1.

(III) No vehicle will exceed a seating capacity of seven people, including the driver.

(IV) Against providing sightseeing service on the segment of Fremont County Road 67 known as Phantom Canyon Road.

(V) Against providing service on the segments of Fremont County Road 9 and Teller County Road 88 known as Shelf Road.

(VI) Against providing service on the segment of Fremont County Road 3 known as Temple Canyon Road.

(VII) Against providing service on Fremont County Road 69.

(VIII) Against service using a vehicle crossing the Royal Gorge Bridge.

12. Both the First and Second Stipulated Motions indicate that the parties seek to amend the Application as set forth therein to settle and resolve their disputes in this proceeding; if the proposed amendments are accepted, the Intervenors' interests in the Application would be eliminated or resolved, and Intervenors would withdraw their Interventions.⁵

13. To be acceptable, changes to an application's requested authority 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 carrier is within the scope of its Commission-granted authority.

14. The ALJ finds that the Proposed Amendments are restrictive and clarify the authority so that it is clear, understandable, and administratively enforceable. The ALJ grants the

⁵ First Stipulated Motion at 2; Second Stipulated Motion at 2-3.

First Stipulated Motion and the Second Stipulated Motion as modified by Decision No. R25-0158-I.

15. Since the Proposed Amendments are accepted, consistent with the requests in the First and Second Stipulated Motions, Marketing Services' and Colorado Jeep's Interventions are acknowledged as withdrawn. As a result, Marketing Services and Colorado Jeep are no longer parties to this Proceeding, and the Application, as amended, is not contested.

B. Amended Application

16. Because the Amended Application is uncontested, verified, includes sufficient facts to decide the relief sought, is supported by the required documents and information, and a hearing is not required or requested, the ALJ will consider the Amended Application based on the record without a formal hearing.⁶

17. The record shows that Yeti is a Colorado limited liability corporation organized in Colorado and in good standing.⁷ The verified Application establishes that Yeti 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.⁸ The Application establishes that Yeti has sufficient equipment with which to render the proposed service and is financially fit to conduct operations under the authority requested.⁹ The Application establishes that Yeti's owner has experience in the transportation industry, which establishes that Yeti is managerially fit to operate the requested authority.¹⁰ Finally, a review of the verified Application indicates a need for the proposed service.¹¹

⁶ § 40-6-109(5), C.R.S., and Rule 1403, 4 CCR 723-1.

⁷ See Certificate of Good Standing dated December 12, 2024 (Application at 12).

⁸ Application at 7.

⁹ *Id.* at 10-11.

¹⁰ *Id.*

¹¹ *Id.* at 9-10.

18. Based on the foregoing and the record, the ALJ concludes that because Yeti is fit, financially and otherwise, to perform the proposed service and because the other prerequisites have been met, the requested authority should be granted, subject to the below conditions.

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

III. ORDER

A. The Commission Orders That:

1. Consistent with the above discussion, the Application that Colorado Yeti Tours LLC (“Yeti”) filed on December 5, 2024, is approved, and the Application is amended as set forth above.

2. The Stipulated Motion to Restrictively Amend Application and Withdraw Intervention., filed February 12, 2025, and the Second Stipulated Motion to Restrictively Amend Application and Withdraw Intervention, filed February 14, 2025, are granted, and the Application is amended as set forth below in ordering paragraph 5.

3. Consistent with the above discussion, Colorado Jeep and Off Road Tours, Inc.’s (“Colorado Jeep”) Petition for Intervention and Entry of Appearance, filed December 23, 2024, is withdrawn. Colorado Jeep is no longer a party to this proceeding.

4. Consistent with the above discussion, Marketing Services Inc. of Pueblo’s (“Marketing Services”) Entry of Appearance and Petition for Intervention the Petition for Intervention and Entry of Appearance, filed January 15, 2025, is withdrawn. Marketing Services is no longer a party to this Proceeding.

5. The May 7, 2025, hearing is vacated.

6. Yeti is granted a Certificate of Public Convenience and Necessity to Operate as a Common Carrier of Passengers by Motor Vehicle as follows:

7. Transportation of passengers in call-and demand sightseeing service between all points in the Counties of El Paso, Fremont, and Teller, State of Colorado.

8. RESTRICTIONS:

9. (I) Against sightseeing service originating and terminating in the Counties of Fremont and Teller.

10. (II) Against operating more than two vehicles at any one time.

11. (III) No vehicle will exceed a seating capacity of seven people, including the driver.

12. (IV) Against providing sightseeing service on the segment of Fremont County Road 67 known as Phantom Canyon Road.

13. (V) Against providing service on the segments of Fremont County Road 9 and Teller County Road 88 known as Shelf Road.

14. (VI) Against providing service on the segment of Fremont County Road 3 known as Temple Canyon Road.

15. (VII) Against providing service on Fremont County Road 69.

16. (VIII) Against service using a vehicle crossing the Royal Gorge Bridge.

17. Yeti must operate in accordance with all applicable Colorado Laws and Commission rules.

18. Yeti may not commence operation under the authority granted 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. To this end, Yeti must file an advice letter and tariff on not less than ten days' notice. The advice letter and tariff must be filed as a new Advice Letter proceeding and must 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 www.colorado.gov/pacific/dora/common-carriers); and
- (d) paying the applicable issuance fee.

19. If Yeti 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 will be void. For good cause shown, the Commission may grant additional time for compliance if the request for additional time is filed within 63 days of the effective date of this Decision.

20. The Commission will notify Yeti in writing when the Commission's records demonstrate compliance with ordering paragraph 7 above.

21. Proceeding No. 24A-0532CP is closed.

22. 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.

23. As provided by § 40-6-109, C.R.S., copies of this Recommended Decision shall be served upon the parties, who may file exceptions to it.

- a. If no exceptions are filed within 20 days after service or within any extended period of time authorized, or unless the 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.

- b. If a party seeks to amend, modify, annul, or reverse basic findings 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.

24. 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

KELLY A. ROSENBERG

Administrative Law Judge

ATTEST: A TRUE COPY

Rebecca E White,
Director