

Decision No. C14-0582

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 14A-0494BP-STOCK TRANSFER-ETA

IN THE MATTER OF THE APPLICATION FOR AN ORDER OF THE COMMISSION GRANTING EMERGENCY TEMPORARY AUTHORITY AUTHORIZING THE SALE OF CAPITAL STOCK IN SITIYANA TRANSPORT, LLC, RECORD OWNER AND OPERATOR OF CONTRACT CARRIER PERMIT NO. B-9907 FROM SITIYANA TRANSPORT, LLC TO ALPHA AMERICAN LOGISTICS, LLC.

**COMMISSION DECISION DENYING
EMERGENCY TEMPORARY APPROVAL**

Mailed Date: May 30, 2014

Adopted Date: May 28, 2014

I. BY THE COMMISSION

A. Statement, Findings, and Conclusions

1. On May 16, 2014, Sityana Transport, LLC (Transferor), filed an application for emergency temporary authority to approve the transfer of capital stock in Sityana Transport, LLC, record owner of Contract Carrier Permit No. B-9907, to Alpha American Logistics, LLC (Transferee).

2. Transferor and Transferee specifically request emergency temporary approval for the stock transfer for 30 days, pending the outcome of the related applications for temporary approval and permanent approval to transfer the capital stock of Transferor.

3. Pursuant to § 40-10.1-204(2), C.R.S., the Commission is authorized to grant temporary authority when:

Pending the determination of an application filed with the commission for approval of an acquisition of stock of a common carrier or contract carrier...the commission may, in its discretion and without hearings or other proceedings, grant temporary approval for a period not exceeding one hundred eighty days...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.

4. Commission Rules 4 *Code of Colorado Regulations* 723-6-6205(c)(II) and 723-6-6203(c) of the Rules Regulating Transportation by Motor Vehicle flesh out the statute in the contract carrier context by requiring the customer support letter, which must be present in all contract carrier applications, to explain the basis and nature of the emergency. The support letter must also support the applicant's particular request for authority, address the immediate and urgent need for the proposed service, and specify whether any alternative possible services in the area exist.

5. In support of the application, Transferor and Transferee explain that Transferor needs expedited approval of the stock transfer because Transferor needs an infusion of capital and the investors who will provide that infusion could decide not to invest in Transferor if the application is not granted immediately. However, the required customer support letter is not present. Transferor and Transferee submitted a customer support letter on May 27, 2014 which would support Non-Medical Transportation, but Contract Carrier Permit No. B-9907 allows for only Non-Emergency Medical Transportation. Therefore, the required customer support for this stock transfer is lacking.

6. The Commission finds and concludes that the information submitted with this application does not support an emergency temporary transfer of capital stock.

7. The denial of this application creates no presumption about the final disposition of the permanent application. The permanent application will be determined on the evidence presented using the statutory criteria.

II. ORDER

A. The Commission Orders That:

1. The application for Emergency Temporary Approval of the transfer of the capital stock of Sitiyana Transport, LLC, record owner of Contract Carrier Permit No. B-9907 to Alpha American Logistics, LLC, is denied.

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 mails or serves this Decision.

3. This Decision is effective on its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
May 28, 2014.**

(S E A L)



ATTEST: A TRUE COPY

Doug Dean,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

JOSHUA B. EPEL

PAMELA J. PATTON

GLENN A. VAAD

Commissioners