Decision No. R14-1137

BEFORE THE PUBLIC UTILI**TIES COMMISSION OF THE STATE OF COLORADO**

PROCEEDING NO. 13A-0796CP-TRANSFER

IN THE MATTER OF THE JOINT APPLICATION OF SCHAFER-SCHONEWELL AND ASSOCIATES, INC., DOING BUSINESS AS ENGLEWOOD EXPRESS &/OR WOLF EXPRESS SHUTTLE FOR PERMANENT APPROVAL TO TRANSFER CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY PUC NOS. 50790, 52940 AND 55363 TO COLORADO AIRPORT SHUTTLE SERVICES, LLC.

RECOMMENDED DECISION OF
ADMINISTRATIVE LAW JUDGE
ROBERT I. GARVEY
GRANTING APPLICATION WITH CONDITIONS

Mailed Date: September 16, 2014

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I. STATEMENT

1. Schafer-Schonewill and Associates Inc., doing business as Englewood Express &/or Wolf Express Shuttle (Wolf Express) and [1]Colorado Airport Services (Airport Services) LLC (collectively Joint Applicants), initiated the above captioned proceeding on July 11, 2013, by filing a joint application seeking Commission authority to transfer Certificates of Public Convenience and Necessity PUC Nos. 50790, 52940, and 55363 (the CPCNs) from Wolf Express to Shuttle Services. Included with this filing were exhibits in support of the proposed transfer of the CPCNs.

2. On July 15, 2013, the Commission provided public notice of the application by publishing a summary of the same in its Notice of Applications Filed as follows:

> For an order of the Commission authorizing the transfer of Certificate of Public Convenience and Necessity PUC Nos. 50790, 52940, and 55363 from Schafer-Schonewill and Associates, Inc., doing business as Englewood Express &/or Wolf Express Shuttle to Denver Airport Shuttle Services, LLC.

3. On August 19, 2013, the Staff of the Public Utilities Commission (Staff) filed their Entry of Appearance and Notice of Intervention Pursuant to Rule 1007(a) and Rule 1401 and Request for Hearing through counsel. In their filing Staff maintained that the applicant could not demonstrate managerial, operational, or financial fitness to conduct operations in the proposed application and requested a hearing.

4. Later on August 19, 2013, Staff filed their Amended Notice of Intervention. In their amended notice Staff maintained that the Applicants would not be able to be able to fulfill their burden of proof with regard to subsections (A) through (E) of Commission

[1] Colorado Airport Shuttle Services was named Denver Airport Shuttle Services when the application was filed.

Rule 6205(c)(XVI) of the Commission's Rules Regulating Transportation by Motor Vehicle 4 *Code of Colorado Regulations* (CCR) 723-6.

5. On August 28, 2013, the Commission deemed the application complete and it was referred it to an Administrative Law Judge (ALJ) for disposition.

6. By Decision No. R13-1112-I, issued on September 9, 2013, a prehearing conference was scheduled for September 24, 2013

7. By Decision No. R13-1190-I, issued on September 24, 2013, a procedural schedule in the above captioned proceeding was established. As part of the procedural schedule, an evidentiary hearing was scheduled for November 20 and 21, 2013.

8. On October 11, 2013, Wolf Express and Airport Services jointly filed their Stipulated Motion to Vacate Procedural Schedule, Waive 210-Day Deadline and to Stay Further Proceedings in this Case.

9. By Decision No. R13-1295-I, issued on October 15, 2013, the Stipulated Motion to Vacate Procedural Schedule, Waive 210-Day Deadline and to Stay Further Proceedings in this Case was granted and the Proceeding was stayed.

10. On February 26, 2014, Wolf Express and Airport Services jointly filed their Stipulated Motion to Lift Stay of Proceedings in this Case Set Prehearing Conference and Waive Response Time. As grounds, Wolf Express and Airport Services state that there has been a resolution in Proceeding No. 13C-0937-INS and Proceeding No. 13A-0955CP-Suspension and therefore there is no longer a need to stay the above captioned proceeding.

11. By Decision No. R14-0221-I, issued on February 27, 2014, the Stipulated Motion to Lift Stay of Proceedings in this Case Set Prehearing Conference and Waive Response Time was granted and a prehearing conference was scheduled for March 17, 2014.

12. By Decision No. R14-0376-I, issued April 9, 2014, an evidentiary hearing was scheduled for June 23, 2014.

13. On June 23, 2014, an evidentiary hearing was convened in the Commission offices. Joint Applicants and Staff appeared through its counsel. Joint Applicants offered the testimony of Khalil Laleh and Brad Whittle, Staff offered the testimony of Gary Gramlick. Admission of Hearing Exhibits 1 through 12 (including 1-A) was stipulated to by the parties prior to the start of the hearing.

14. The parties also stipulated to the following facts as they relate to Rule 6205(c) 4 CCR 723-6.

a) The authorities at issue are not abandoned;

b) Wolf Express has engaged in bona-fide operations of the authorities or the operations were excused by PUC approved suspension;

c) The authorities have served the public interest as it relates to stipulation a and b;

15. At the conclusion of the evidence, the ALJ closed the record and took the matter under advisement.

16. Statements of position were filed by the parties on July 15, 2014.

17. In reaching this Recommended Decision the ALJ has considered all arguments presented, including those arguments not specifically addressed in this Decision. Likewise, the ALJ has considered all evidence presented at the hearing, even if the evidence is not specifically addressed in this Decision.

18. Pursuant to § 40-6-109, C.R.S., the ALJ now transmits to the Commission the record of the hearing and a written recommended decision in this matter

II. FINDINGS OF FACT

19. Mr. Tony Laleh has been the owner of Wolf Express since 1998.

20. In 2001 Wolf Express operated 37 vans providing airport shuttle service. *Hearing Transcript p. 40, l. 8-12.*

21. After the terrorist attacks on September 11, 2001, Wolf Express experienced a decline in business. *Hearing Transcript p.16, l.1-6.*

22. In February of 2003, Mr. Laleh attempted to sell his business. By Decision No. R03-0623 in Proceeding No. 03A-055CP issued June 5, 2003, CPCN PUC Nos. 52940, 50790, and 55363 were transferred to Hotels of Denver Mountain Carrier, doing business as Denver Mountain Express. *Hearing Exhibit 2.*

23. Hotels of Denver Mountain Carrier, doing business as Denver Mountain Express defaulted on obligations to Wolf Express. CPCN PUC Nos. 52940, 50790, and 55363 were returned to Wolf Express. *Id.*

24. In 2004, shortly after regaining control of the CPCNs, Wolf Express leased CPCN PUC Nos. 52940, 50790, and 55363 to United Corporation, doing business as Blue Sky Shuttle. *Id.*

25. In 2005 Wolf Express leased CPCN PUC Nos. 52940, 50790, and 55363 to Golden West Commuter LLC. *Id.*

26. In 2006 Wolf Express leased CPCN PUC Nos. 52940, 50790, and 55363 to Meylo LLC, doing business as Big Sky Airport Shuttle. *Id.*

27. In 2010 Wolf Express leased CPCN PUC Nos. 52940, 50790, and 55363 to Golden West Commuter Inc. *Id.*

28. In May of 2013, Wolf Express regained control of the CPCNs and Mr. Laleh entered into negotiations with Brad Whittle of Veolia Transportation to sell the CPCNs. An agreement was reached on June 25, 2013.

29. Mr. Brad Whittle is the senior vice-president for Veolia Transportation on Demand (Veolia) and a vice president of Airport Services.

30. Veolia is the parent company for Airport Services and SuperShutttle.

31. Portions of the Wolf Express authority that Airport Services proposes to purchase overlaps with CPCN PUC No. 55686 owned and operated by SuperShuttle.

32. Airport Services does not propose to operate the Wolf Express Authorities if the transfer is approved. Airport Services proposes to lease the authorities to a third party which will not be SuperShuttle.

III. APPLICABLE LAW

33. Applicant generally bears the burden of proof by a preponderance of the evidence. § 13-25-127(1), C.R.S. Joint Applicants initiated this proceeding and is the proponent of an order of the Commission conferring authority to transfer the authority. This falls squarely within the language of 4 CCR 723-1-1500 of the Rules of Practice and Procedure. The evidence must be substantial, defined as "such relevant evidence as a reasonable person's mind might accept as adequate to support a conclusion." *City of Boulder v. Colorado Public Utilities Commission*, 996 P.2d 1270, 1278 (Colo. 2000). The preponderance standard requires the finder of fact to determine whether the existence of a contested fact is more probable than its non-existence. *Swain v. Colorado Department of Revenue*, 717 P.2d 507 (Colo. App. 1985). A party has met

this burden of proof when the evidence on a whole and however slightly, tips in the favor of that party.

34. *Rule 6205(c) of 4 CCR* 723-6, addresses the requirements for the approval of the transfer of authority from one carrier to another carrier.

35. *Rule* 6205(c)(XVI), 4 *CCR* 723-6, states the Applicants have the burden of proving:

> (A) that the transferor has not abandoned the authority and has not allowed the authority to become dormant;
>
> (B) that the transferor has been and is engaged in bona fide operations under its authority, or the extent to which bona fide operations have been excused because of a Commission-approved suspension;
>
> (C) that the transfer is not contrary to the public interest;
>
> (D) that the transfer will not result in the common control or ownership of duplicating or overlapping authorities; and
>
> (E) that the transferee will engage in bona fide regulated intrastate carrier operations and is fit to do so, except in transfers involving foreclosures of encumbrances, executions in satisfaction of a judgment or claim, or transfers pursuant to a court order.

36. *Rule* 6206, 4 *CCR* 723-6, states the following:

> The Commission shall cancel duplicating or overlapping authorities that arise as a result of any grant, extension, or other modification to a certificate or permit.

37. The parties have stipulated subparts A, B, and C as it relates to A and B of *Rule* 6205(c)(XVI), 4 *CCR* 723-6, leaving only subparts C as it relates to D and E and D and E at issue in this proceeding.

38. The Joint Applicants have not asked for a waiver of *Rule* 6206, 4 *CCR* 723-6.

IV. THE ARGUMENT OF JOINT APPLICANTS

39. The Joint Applicants argue that the authorities should be transferred intact, without cancellation of duplications, since it serves the public interest to preserve the authorities as long as they are not operated by SuperShuttle. *Joint Applicants Statement of Position p. 2*

40. The Joint Applicants also argue that it "serves the public interest" to find that Airport Services meets the bona fide operations requirements of subsection E of *Rule* 6205(c)(XVI), 4 *CCR* 723-6. *Id.*

41. In the course of the hearing, the Joint Applicants provided the testimony of Khalil Laleh and Brad Whittle.

42. Mr. Laleh testified that there are many potential drivers that are seeking employment by a carrier. *Hearing Transcript p. 28, l.1-5.* Mr. Laleh also testified that the number of carriers has decreased and the population in the Denver Metropolitan area has increased resulting in public need. *Hearing Transcript p. 28, l.14-25.*

43. Mr. Whittle testified that the transfer would be in the public interest since Airport Services, with Veolia as a parent company, would have the financial resources to maintain the authority if there was a period of time between leases.

44. Joint Applicants argue that the transfer will not result in Airport Services owning duplicating or overlapping authorities since Airport Services currently owns no other authorities. The other authorities in question in this proceeding are owned by SuperShuttle a different subsidiary of Veolia.

45. Joint applicants also argue that any overlapping or duplicating authorities are not owned by Airport Services but by SuperShuttle. In addition, Airport Services agrees not to lease the authorities to SuperShuttle.

46. The Joint Applicants do not address *Rule* 6206, 4 *CCR* 723-6.

V. THE ARGUMENT OF STAFF

47. Staff asks the Commission to deny the Application.

48. Staff argues that a plain reading of *Rule* 6206, 4 *CCR* 723-6, does not allow the Commission discretion in granting an application if it will result in overlapping authorities.

49. The Staff points to the word "shall" contained in *Rule* 6206, 4 *CCR* 723-6 in stating that the Commission has no discretion to allow a transfer that will result in overlapping authorities.

50. Staff also argues that Airport Services will not engage in bona fide operations as required in subsection E of *Rule* 6205(c)(XVI), 4 *CCR* 723-6. Staff states that since Airport Services will never actually operate the authorities they fail to meet the requirements of bona fide operations.

VI. DISCUSSION AND CONCLUSIONS

A. *Rule* 6205(c)(XVI)(C), 4 *CCR* 723-6 – Public Interest

51. *Rule* 6205(c)(XVI)(C), 4 *CCR* 723-6, states the Applicants have the burden of proving that the transfer is not contrary to the public interest.

52. While the testimony of Mr. Laleh was credible that he believed that there were many drivers seeking employment and that the population of the Denver metropolitan area had increased and the number of carriers decreased, there was no other evidence of these assertions.

53. No evidence was presented as to the actual population growth, the number of carriers serving the Denver metropolitan area, or how the number of carriers has either increased or decreased. Only Mr. Laleh's naked statements that the preservation of the authorities was in the public interest.

54. Mr. Whittle presented testimony only related to Veolia's ability to meet Commission financial requirements if Airport Services is unable to lease the authorities.

55. Mr. Whittle's testimony failed to state how this ability serves the public interest.

56. Staff only presented the testimony of Mr. Gramlick. On direct testimony, Mr. Gramlick did not address any public interest analysis. But upon questioning by the ALJ stated:

> Q But I ask, do you see any public harm if it was granted -- the application was granted as is?
>
> A The only possible -- well, there might be some possibilities -- I think somebody else discussed that, too, the two carriers are somewhat closely affiliated. There might be some incentive to maintain a level of rates rather than lowering them. I suppose a slim possibility even for the quality of the vehicles and the drivers, if they weren't directly competing with a different carrier or the time or frequency of service. But none of those are known factors, they are just possible.

Hearing Transcript, p.88, l. 15-25.

57. At issue here is not if the transfer is in the public interest, the question is only if the transfer is "contrary" to the public interest. The evidence is scant that the transfer is in the public interest. Arguments are presented with no statistical backing of any kind.

58. At the same time no evidence was presented to indicate that the transfer was contrary to the public interest. The statements by Mr. Gramlick concerning the negative impact of the transfer, were by his own admission speculative at best.

59. It is the finding of the undersigned ALJ that the proposed transfer, while the evidence is not overwhelming, is in the public interest, therefore it is not contrary to the public interest.

60. The Joint Applicants have met their burden as to *Rule* 6205(c)(XVI)(C), 4 *CCR* 723-6.

B. *Rule* 6205(c)(XVI)(D), 4 *CCR* 723-6 – Common Control or Ownership

61. Rule 6205 (c)(XVI)(D), 4 *CCR* 723-6, states the following:

> that the transfer will not result in the common control or ownership of duplicating or overlapping authorities

62. The Joint Applicants do not believe that this is an issue in the proceeding. Joint Applicants admit that there is overlap and duplication between CPCN PUC No. 55686 owned by SuperShuttle and the CPCNs at issue in this proceeding.

63. Joint Applicants argue that CPCN PUC No. 55686 is owned by SuperShuttle and if approved, CPCN PUC Nos. 50790, 52940, and 55363 will be owned by Airport Services. Each is a separate company.

64. Although, both SuperShuttle and Airport Services are owned by Veolia, Airport Services shall not lease CPCN PUC Nos. 50790, 52940 and 55363 to SuperShuttle, therefore there is no common control or ownership of overlapping authorities.

65. Staff argues that the transfer of CPCNs will result in the overlap and duplication of authorities owned and operated by SuperShuttle. Airport Services and SuperShuttle are both affiliates of Veolia. Since both Airport Services and SuperShuttle are owned by Veolia, the transfer would result in overlap and duplication of authorities.

66. Staff points to the statement contained in the joint application that "[a]pproval of the transfer will result in substantial overlap and duplication of the authorities in CPCN No. 55686 owned and operated by [CAS[2]]'s affiliate, SuperShuttle International Denver Inc." *Staff's Statement of Position p. 2.*

[2] Airport Services.

67. In support of this argument Staff cites a number of Commission proceedings including Consolidated Proceeding No. 95A-566CP,[3] Proceeding No. 11A-424CP,[4] and Proceeding No. 98A-040CP.[5]

68. In Consolidated Proceeding No. 95A-566CP, a number of CPCNs were transferred from Boulder Airporter Inc. and Colorado PUC 191 to Shuttle Associates LLC. The owners of Shuttle Associates also owned Denver Shuttle Associates LLC. The common owners of the two limited liability corporations did not contest any overlap or duplication.[6] The Commission did not and was not asked to determine if a transfer of authority to an affiliate should be considered an overlap or a duplication of authority.

69. In Proceeding No. 11A-424CP, also cited by Staff, at issue was the transfer of authority from Wolf Express to Colorado Mountain Express. If the transfer was allowed it would create an overlap and duplication with authorities already owned by Colorado Mountain Express. Proceeding No. 11A-424CP did not deal with different affiliates, with common ownership, owning duplicating or overlapping authorities. It is easily distinguished from the instant proceeding.

70. The last Proceeding cited by Staff in support of its proposition is Proceeding No. 98A-040CP. In this proceeding American Cab Company of Colorado Springs LLC (American Cab) transferred assets, including a CPCN to Greater Colorado Transportation Company (Colorado Transportation) which was owned by Yellow Cab Service Corporation

[3] Decision No. C96-1227 issued November 25, 1996.

[4] Decision No. C11-1352 issued December 15, 2011.

[5] Decision No. C98-426 issued April 30, 1998.

[6] "The Applicants admit that, if approved, Messers. Zucker, Ross, and Joseph will own, through their companies, a number of CPCNs. Applicants further admit that there is duplication and overlap of operating rights between the certificates (or portions thereof) sought to be transferred in this docket and CPCN PUC Nos. 82, 13175, and 2778 & I (the CPCNs held by Denver Shuttle LLC)." *Decision No C96-1227, p. 21.*

(Yellow). Yellow also owned Greater Colorado Springs Transportation Company, doing business as Yellow Cab and/or Metro Taxicab of Colorado Springs and/or Towne Car Inc.

71. The history of this proceeding is interesting to note. A companion application, Proceeding No. 98A-039CP, was filed with the application in Proceeding No. 98A-040CP.

72. Proceeding No. 98A-039CP concerned the operating authority of American Cab in metropolitan Denver. The application requested that this authority to be transferred to Colorado Transportation which was an affiliate of Coach USA, Inc. (Coach). Coach was also the parent corporation of Metro Taxi Inc., which operated in the Denver metropolitan area[7].

73. Staff did not intervene in Proceeding No. 98A-039CP since that application did "not present the same public interest concerns" as the application in Proceeding No. 98A-040CP.[8]

74. In Proceeding No. 98A-039CP the parties and the Commission were unconcerned about any duplicating or overlapping authorities if they were owned by separate affiliates.

75. In Proceeding No. 98A-040CP, the parties reached a stipulated settlement. In the settlement the parties agreed that the two companies, American Cab and Yellow, would operate separately in at least five different ways.[9]

[7] The overlap between SuperShuttle's authority and the authorities at issue in this proceeding are also in the Denver metropolitan area

[8] Decision No. R98-380 issued April 16, 1998, Attachment p. 3, paragraph 4-5.

[9] The stipulation called for American and Yellow to operate in the following separate ways: a) American will retain its separate name, telephone numbers, colors, driver lease agreements, and tariff rates and charges from those of Yellow Cab; b) American will retain the current differential between its tariffed rates and rates of Yellow Cab; c) American and Yellow Cab will have separate operating managers; d) American Cab will have a separate marketing budget which will be approximately double that of the Yellow Cab marketing budget ; for the first year the marketing budget of American will be approximately $20,000 and that of Yellow Cab will be approximately $10,000; and e) American Cab's primary advertising, that in the telephone Yellow Pages in Colorado Springs, will double the size of the Yellow Cab ad.

76. On its own motion, the Commission modified the recommended decision and stated the following:

> We accept the parties' agreement, in the Stipulation, that the overlap in operating rights is in the public interest for the time being, in light of the rate differential between American's and Yellow Cab's rates. However, GCTC has agreed to maintain that differential only for the term of the Stipulation (*i.e.,* 24 months). We conclude that operation of two taxicab companies in the same area when both companies are subject to the same corporate control may prove confusing to the public. For example, the existence of two apparently separate companies may convey the impression that there is competition in the area. In fact, since GCTC and Yellow Cab will be controlled by Coach and YCSC, there will be no real competition between the operating companies.
>
> Decision No. C98-0426 at ¶ 4.

77. The Commission was not concerned if the affiliates would have duplicating or overlapping authorities as much as they were about the false appearance of competition.

78. The situation in the instant case is distinguished from the situation in Proceeding No. 98A-040CP. There is no belief that Airport Services (a company under the same corporate control as SuperShuttle) shall operate the authority. Airport Services has stated that the intention is to only lease the authority. Any lease that Airport Services would engage in would have to be accomplished through a new Commission proceeding. If the proposed lease arrangements would be confusing to the public, Staff would have the ability to intervene to ensure that there was no confusion.

79. The treatment and concerns of the Commission in Proceeding No. 98A-040CP and Proceeding No. 98A-039CP, show that common affiliates owning duplicating or overlapping authorities is not a concern of the Commission, unless the market is small and it would give the appearance of false competition.

80. In the instant proceeding, if the proposed transfer is approved, the duplicating or overlapping authorities would be under the control of separate affiliates. Only the affiliate that

owned the authority could operate or lease the authority. SuperShuttle would have no ownership rights in the authorities to be transferred and no ability to control the authorities.

81. Staff confuses the common ownership or control of the affiliate with the common ownership or control of the authority. Rule 6205 (c)(XVI)(D), 4 *CCR* 723-6, concerns only common ownership of the authority. If approved, two separate legal entities will own the authorities. The authority owned by SuperShuttle will not be owned by the same legal entity (Airport Services) that will own the authorities at issue in this proceeding. Therefore there will be no duplicating or overlapping authorities[10].

82. In addition, by the plan submitted by the Joint Applicants, the authority will be leased to a third party. Airport Services has stated that it will not operate the authority. If Airport Services does not lease the authority it will become dormant. If Airport Services does lease the authority, it will not be in control of the authority.

83. As stated above, any lease of the authority will have to be done through a proceeding before the Commission. If the lease does not provide for real competition or Airport Services appears to control the authority, Staff may intervene in the proceeding and contest the lease.

84. The Joint Applicants have met their burden as to Rule 6205 (c)(XVI)(D), 4 *CCR* 723-6.

C. *Rule* 6205(c)(XVI)(E), 4 *CCR* 723-6 – bona fide operations

85. Mr. Whittle testified that Airport Services will be funded by Veolia and intends to lease the authorities to a third party if the transfer is granted. Mr. Whittle could not name the

[10] This finding also makes Rule 6206 not applicable in this proceeding.

entity that would lease the authority. While negotiations had been conducted earlier, due to the time it has taken for the proceeding to reach hearing, those talks have been put on hold.

86. Staff argues that the inability to name who will lease the authority from Airport Services is evidence of the fact that Airport Services shall not be in bona fide operations.

87. Staff further notes that Airport Services will be required to make additional filings,[11] if the application is granted, and failure to make these filings will result in the Decision becoming void.

88. Considering this application was filed over one year ago, it is unreasonable for Airport Services to know to who it will be able to lease the authority. There has been a question as to whether the authority will even be transferred to Airport Services, or what the authority would look like if the application is approved. These factors would certainly make any potential lessee hesitant to agree to a contract.

89. As far as Staff's concerns about necessary filings, if Airport Services fails to make the proper filings, there are sufficient mechanisms to make any transfer void. Airport Services should be given the opportunity to comply with Commission regulations, it should not be assumed that they will not and have that used as a basis to deny the application.

90. The Joint Applicants have met their burden as to Rule 6205 (c)(XVI)(E), 4 *CCR* 723-6.

91. Having met the burdens of Rule 6205 the application shall be approved with certain conditions.

[11] Airport Services would be required to make a filing concerning insurance.

92. Airport Services shall be required to lease the authorities within one year of this Recommended Decision becoming a decision of the Commission. If Airport Services fails to lease the authority within one year of this Decision becoming a decision of the Commission, it shall be required to make a filing removing any duplication or overlap with SuperShuttle's CPCN PUC No. 55686.

VII. ORDER

A. The Commission Orders That:

1. The Joint Application of Schafer-Schonewill and Associates Inc., doing business as Englewood Express &/or Wolf Express Shuttle (Wolf Express) and [12]Colorado Airport Services (Airport Services) LLC, filed by the Parties on July 11, 2013, is granted with conditions.

2. Within one year of the effective date of this Decision, Airport Services shall file an application to lease or transfer this authority to an entity that is in no way affiliated with Veolia Transportation. In the alternative, Airport Services shall, within one year of the effective date of this Decision, file an application to eliminate any duplicating or overlapping authority with Certificate of Public Convenience and Necessity (CPCN) PUC No. 55686. If Airport Services Fails to do so, CPCN PUC Nos. 50790, 52940, and 55363 shall be summarily suspended

3. Airport Services shall operate in accordance with all applicable Commission rules and regulations.

4. Wolf Express shall file a terminating annual report from the first of January to the date of this Decision.

[12] Colorado Airport Shuttle Services was named Denver Airport Shuttle Services when the application was filed.

5. Airport Services shall not commence operation until it has:

(a) caused proof of insurance (Form E or self-insurance) or surety bond (Form G) coverage to be filed with the Commission in accordance with applicable rules;

(b) paid to the Commission, the motor vehicle fee ($5) 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) filed an adoption notice that adopts as its own the currently effective tariff of Wolf Express

(d) paid the applicable issuance fee ($5);

(e) filed an acceptance of transfer form, executed by Wolf Express and Airport Services; and,

(f) received notice in writing from the Commission that it is in compliance with the above requirements and may begin service.

6. If Wolf Express and Airport Services do not comply with the requirements of this Decision within 60 days of its effective date, then the approval to transfer CPCN PUC Nos. 50790, 52940, and 55363 shall be void. For good cause shown, the Commission may grant additional time for compliance if the request for additional time is filed within the 60 days.

7. Within 60 days of the effective date of this Decision, Airport Services shall file an advice letter and tariff in its own name

8. 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.

9. 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.

a) 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.

b) 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.

10. 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

Doug Dean,
Director