

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

APPLICATIONS FOR PERMANENT)
AUTHORITY TO OPERATE AS COMMON OR)
CONTRACT MOTOR VEHICLE PASSENGER) DOCKET NO. 92M-303CP
CARRIERS TO SERVE DENVER)
INTERNATIONAL AIRPORT.)

**COMMISSION ORDER
CONSOLIDATING APPLICATIONS
AND NOTICE OF PRE-HEARING CONFERENCE**

Mailed Date: June 10, 1992
Adopted Date: May 27, 1992

STATEMENT, FINDINGS OF FACT, AND CONCLUSIONS

BY THE COMMISSION:

Stapleton International Airport (SIA) presently is the major airport serving the Denver Metropolitan Area. In October 1993, the City of Denver plans to simultaneously close SIA and open Denver International Airport (DIA).

Over 30 PUC-authorized passenger carriers presently provide service to and from SIA. Many common carrier certificates of public convenience and necessity and contract carrier permits specify SIA in the operating authority description. Therefore, to serve the new DIA when it opens, many passenger carriers will need to file applications with the Commission to change their present operating authority.

Also, the Commission expects to receive a large number of passenger carrier applications to serve the new DIA from both PUC-authorized passenger carriers who do not presently serve SIA and new passenger carriers wishing to enter the Colorado market.

The new DIA provides the Commission with a unique opportunity to craft a coordinated, integrated, effective, and efficient, for-hire transportation system to serve the public interest. To best determine the public interest, the Commission must consider issues such as:

1. Existing passenger carrier interest in maintaining the status quo.
2. New passenger carrier interest in providing different or innovative services.
3. Energy efficiency of various transportation modes (rail versus motor vehicle, large bus versus taxicab, etc.) and various types of passenger services (exclusive use versus shared ride, etc.).
4. DIA design, planning, and operations, as controlled by the City and County of Denver.
5. Public demand for various types of services (exclusive use versus shared ride, etc.).
6. Costs of alternative forms of transportation.

The Commission recognizes that it must act within the present statutory framework. Perhaps the most important statutory constraint on regulating passenger carrier service is the governing standard of regulated monopoly. The Commission must balance the existing level of competition, both within the same service (taxicabs) and between similar services (exclusive use and shared ride), with the various interests desiring more or less competition, and the legislative mandate to regulate passenger service under the doctrine of regulated monopoly.

Other legal issues must be addressed as well. An interesting, and perhaps difficult, legal issue is the idea of "grandfathering," i.e., whether carriers presently serving SIA have an automatic right to provide the same services at the DIA. If a carrier presently serving SIA is denied operating authority to serve DIA, what happens to the carrier's operating authority that the Legislature has declared to be a property right? No doubt, other legal issues will be raised. Perhaps the Commission may determine it advisable to delay any action that could be argued to create "rights" until after the Legislature has been informed of opportunities for positive change.

Rule 79(a) of the Commission's Rules of Practice and Procedure, 4 Code of Colorado Regulations 723-1, states that the Commission may consolidate proceedings where the issues are substantially similar and the rights of the parties will not be prejudiced. Rule

79(b) states that a prehearing conference may be held to expedite hearings and settle issues.

The Commission finds that all applications for permanent authority to operate as common or contract motor vehicle passenger carriers to serve Denver International Airport should be consolidated for processing, hearing, and final determination. The Commission also finds that it would be beneficial to hold a prehearing conference for the purpose of identifying appropriate issues, receiving legal briefs, and establishing procedural deadlines.

The Commission recognizes that carriers who do not file applications prior to the prehearing conference or the hearing process may be placed at a disadvantage relative to carriers who participate in the process from the beginning. We also recognize that this process is necessary to adequately and properly address these matters in a timely manner. Therefore, applicants who wish to participate in these proceedings must take them as they find them at the time they file their applications.

THEREFORE THE COMMISSION ORDERS THAT:

1. All applications -- presently filed or to be filed in the future while this docket is open -- for permanent authority to operate as a common or contract motor vehicle passenger carrier to serve Denver International Airport shall be consolidated for purposes of processing, hearing, and final determination.

2. A prehearing conference shall be held to expedite the processing, settlement of issues, hearing, and final determination of these applications, both filed and anticipated. The prehearing conference shall include, but not be limited to, the following issues:

- a. Separation of substantially similar applications into groups which are suitable to remain consolidated, but are dissimilar one group from another, if any.
- b. Severance of any individual application proceeding from the consolidation, if necessary.
- c. Identification of issues and consideration of any other matters set forth in Rule 79(b) (5) which are appropriate.
- d. Setting deadlines and timetables for processing each group of consolidated applications, including additional prehearing conferences, if necessary.

3. In the future, the Commission may issue additional orders in this docket to provide policy direction and further define issues the Commission determines should be addressed.

4. The prehearing conference in this Docket No. 92M-303CP is scheduled as follows:

DATE:September 15, 1992

TIME:9:00 a.m.

PLACE:Commission Hearing Room
Office Level 2 (OL2)
Logan Tower
1580 Logan Street
Denver, Colorado

5. This order is effective on its day of mailing.

ADOPTED IN OPEN MEETING on May 27, 1992.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners

ORDER-FC