

Decision No. C03-0763

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 03A-274CP-EXTENSION-TA

THE APPLICATION OF CASINO COACH INC FOR TEMPORARY AUTHORITY TO EXTEND OPERATIONS UNDER CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY PUC NO. 55667.

**COMMISSION ORDER DENYING
TEMPORARY AUTHORITY**

Mailed Date: July 15, 2003

Adopted Date: July 9, 2003

I. BY THE COMMISSION:

A. Statement

1. On June 25, 2003, Casino Coach Inc (Casino Coach), filed an application for temporary authority to extend operations under Certificate of Public Convenience and Necessity PUC No. 55667 to include the transportation of passengers and their baggage, in scheduled service, between all points within the area: beginning at the intersection of Sheridan Boulevard and Colfax Avenue, Denver, Colorado; then east along Colfax Avenue to its intersection with Interstate 25; then south along Interstate 25 to its intersection with Alameda Avenue; then west along Alameda Avenue to its intersection with Sheridan Boulevard; then north along Sheridan Boulevard to the point of beginning; on the one hand, and all points in Central City, Colorado, and Black Hawk, Colorado, on the other hand. This application is restricted against providing any service to or from any point located within one mile of Interstate 25.

2. The Commission gave notice of the application on June 30, 2003.

3. Casino Transportation, Inc., filed a notice of intervention opposing the grant of this application, or in the alternative, a motion for permissive intervention. However, we find that the temporary authority sought here by Casino Coach, Inc, does not overlap or impede the authority currently held by Casino Transportation, Inc. Therefore, we find that Casino Transportation, Inc does not have standing to intervene, either as of right or permissively. Consequently, we deny its motion for intervention in this temporary authority application.

4. Pursuant to § 40-6-120(1), C.R.S., the Commission is authorized to grant temporary authority when "there appears to be an immediate and urgent need to any point or within a territory having no carrier service capable of meeting such need."

5. Casino Coach, Inc., must meet a two-fold test: first, that there is an immediate and urgent need for the transportation services, and second, that there is no existing carrier capable of meeting the need. If Casino Coach, Inc., fails to meet either test, the application must be denied.

B. Findings of Fact

6. Casino Transportation, Inc., may provide scheduled service between Central City, Colorado, and Black Hawk, Colorado, on the one hand, and points in the Denver metropolitan area that are east of Sheridan Boulevard, south of Colfax Avenue, and north of Alameda Avenue, on the other hand, under Certificate of Public Convenience and Necessity (CPCN) PUC No. 52393. Casino Transportation, Inc., may also provide scheduled service between Central City, Colorado, and Black Hawk, Colorado, on the one hand, and points in the Denver metropolitan area that are south of Colfax Avenue, north of Alameda Avenue, and west a of a line drawn one mile west of Interstate 25 from Colfax Avenue to Alameda Avenue, on the other hand, under CPCN PUC No. 48419. Therefore, Casino Transportation, Inc., may provide scheduled

passenger service between points in Central City, Colorado, and Black Hawk, Colorado, on the one hand, and points in the Denver metropolitan area surrounding a portion of the area named in this application, on the other hand. However, Casino Transportation, Inc., does not have the authority under CPCN's 48419 and 52393 to provide scheduled service between points in Central City, Colorado, and Black Hawk, Colorado, on the one hand, and points in the geographic area named in this application, on the other hand.

7. Eleven letters were submitted in support of this application. The authors of these letters state they would use the service being requested by Casino Coach in this application for transportation to and from Central City, Colorado, and Black Hawk, Colorado. However, none of the authors of these letters include any statements that indicate an immediate and urgent need exists for the service named in this application.

8. Three pages of names and/or signatures of individuals who apparently support Casino Coach's request to expand its authority were also submitted with this application. The individuals who signed these pages, submitted in the form of a petition, also do not include any statements that indicate an immediate and urgent need exists for the service named in this application.

C. Conclusions

9. The geographic areas named in CPCN's 48419 and 52393 under which Casino Transportation, Inc., may provide scheduled service to and from Central City, Colorado, and Black Hawk, Colorado, does not overlap with the geographic area requested in this application by Casino Coach, Inc., to provide scheduled service to and from Central City, Colorado, and Black Hawk, Colorado.

10. An immediate and urgent need for the requested transportation services has not been shown to exist, and it has not been shown that there is no other carrier capable of providing the service.

11. This application for temporary authority is not in the public interest.

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

II. ORDER

A. The Commission Orders That:

1. The motion by Casino Transportation, Inc., to intervene as matter or right or to alternatively petition for permissive intervention are denied.

2. The application for temporary authority filed by Casino Coach Inc is denied.

3. 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 Order.

4. This Order is effective immediately on its Mailed Date.

**B. ADOPTED IN THE COMMISSIONERS' WEEKLY MEETING
July 9, 2003.**

(S E A L)



ATTEST: A TRUE COPY

Bruce N. Smith
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

GREGORY E. SOPKIN

POLLY PAGE

JIM DYER

Commissioners

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

CERTIFICATE OF SERVICE

DOCKET NO. 03A-274CP-Ext-TA

DECISION NO. C03-0763

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I, Bruce N. Smith, Director of the Public Utilities Commission of the State of Colorado, certify that I served a true and correct copy of the above Commission Decision -- entered in the above numbered matter of record -- upon each of the persons whose names and addresses appear below, by mailing the same in sealed envelopes properly addressed, with sufficient postage prepaid to carry the same to its destination to the following:

APPLICANT:

Casino Coach Inc
7550 Dahlia Street
Commerce City, CO 80022

APPLICANT'S ATTORNEY:

Charles J. Kimball
Kimball & Nespor, P.C.
5400 Ward Road, Bldg. III, Suite No. 150
Arvada, CO 80002

INTERVENOR:

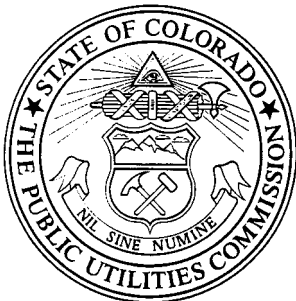
Casino Transportation, Inc.
18301 West Colfax, Box Z
Golden, CO 80401

INTERVENOR'S ATTORNEY:

Charles M. Williams
CHARLES M. WILLIAMS, P.C.
303 E. 17th Ave., Suite No. 888
Denver, CO 80203

ROUTE:

6, 60, and all PUC staff, including staff that may be listed as parties, received this decision electronically.



WITNESS MY HAND AND THE SEAL OF
THE PUBLIC UTILITIES COMMISSION OF
THE STATE OF COLORADO

Bruce N. Smith

Director