

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

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IN THE MATTER OF THE MOTOR VEHICLE)
OPERATIONS OF NTC OF AMERICA, INC.)
CERTIFICATE OF PUBLIC CONVENIENCE) CASE NO. 00176-INS.
AND NECESSITY PUC NO. 2636.)

**COMMISSION ORDER
MODIFYING DECISION**

Mailed date: January 10, 1992
Adopted date: January 8, 1992

STATEMENT, FINDINGS, AND CONCLUSIONS

BY THE COMMISSION:

1. On March 1, 1990, Administrative Law Judge Ken Kirkpatrick issued Recommended Decision No. R90-101. The decision recommends that the operating authorities of a number of carriers, including NTC of America, Inc. (NTC) be revoked for failure to have a current certificate of insurance on file with the Commission.

2. On November 26, 1991, NTC, by and through its attorney, filed a letter with the Commission requesting that Certificate of Public Convenience and Necessity PUC No. 2636 be reinstated. The Commission will construe the letter as a petition to modify the decision under § 40-6-112, C.R.S.

3. By the instant pleading, NTC asserts that it filed for protection under the Federal Bankruptcy Code on March 1, 1990. The operating authority of NTC was revoked by this Commission on March 20, 1990, which was subsequent to the bankruptcy petition. NTC argues that the Commission's action to revoke the certificate is in violation of the automatic stay provision of the bankruptcy code.

Rule No. 2.4 of the Commission's Rules and Regulations Governing Common Carriers By Motor Vehicle For Hire states:

Whenever a carrier files for protection under Chapter 11 or Chapter 13 of the Federal Bankruptcy Code, it shall notify the Commission in writing. Every six months thereafter, the carrier shall file with the Commission a status report of the bankruptcy proceeding.

The Commission's records reveal that the Commission was not informed of the bankruptcy petition until the filing of the instant pleading.

4. The Commission fully examined the issue of bankruptcy filings as they pertain to operating authorities issued by the Commission in Decision No. C91-1533 (K&L Trucking), dated November 20, 1990. The Commission will not repeat those findings here, however, suffice it to say that the Commission agrees with the premises of NTC and will therefore grant the petition to modify the decision revoking the authority. Further, the Commission will place the certificate in a state of suspension pending its transfer. However, if the staff determines that it is appropriate to seek relief of the automatic stay it may do so (see K&L Trucking).

5. NTC is advised that the Commission's rules require periodic reporting of the status of regulated carriers in bankruptcy. Failure to comply with this rule in the future will result in appropriate action by the Commission.

THEREFORE THE COMMISSION ORDERS THAT:

1. The letter filed by NTC of America, Inc., and construed as a petition to modify Commission Decision No. R91-101, is granted.

2. That portion of Recommended Decision No. R90-101 which revoked the operating authority of NTC of America, Inc. is reversed.

3. Certificate of Public Convenience and Necessity PUC No. 2636 is reinstated and is placed in a state of suspension until it can be transferred to another motor carrier or until the staff of the Commission applies for and obtains appropriate relief from the automatic stay.

4. 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.

5. This Order is effective on its date of mailing.

ADOPTED IN OPEN MEETING January 8, 1992.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners

ORDER-CM

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