

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

THE APPLICATION OF KEN SWAN,)
DOING BUSINESS AS KEN SWAN TRUCK)
LINE, FOR TEMPORARY APPROVAL TO)
ASSUME OPERATIONAL CONTROL OF)
CERTIFICATE OF PUBLIC)
CONVENIENCE AND NECESSITY PUC)
NO. 2371&I PENDING COMMISSION)
CONSIDERATION OF THE RELATED)
APPLICATION TO PERMANENTLY)
ACQUIRE THE CERTIFICATE FROM DON)
PEPPEL, DOING BUSINESS AS DEER)
TRAIL TRUCK LINE.)
- - - - -)

DOCKET NO. 92A-168CY-
TRANSFER-TA

**COMMISSION ORDER GRANTING
TEMPORARY APPROVAL**

Mailed date: May 27, 1992
Adopted date: May 27, 1992

STATEMENT, FINDINGS, AND CONCLUSIONS

BY THE COMMISSION:

1. On April 27, 1992, Ken Swan, doing business as Ken Swan Truck Line, filed Docket No. 92A-168CY-Transfer-TA for temporary approval to assume operational control of Certificate of Public Convenience and Necessity PUC No. 2371&I pending Commission consideration of the related application to permanently acquire the certificate from Don Peppel, doing business as Deer Trail Truck Line.
2. The Commission gave notice of the application on May 11, 1992. An intervention opposing the application was filed by Speedway Transportation, Inc. (Speedway).
3. By § 40-6-120, C.R.S., the application for temporary authority is under consideration for a Commission order.

4. Section 40-6-120(1), C.R.S., authorizes the Commission to grant temporary approval ". . . if it appears that failure to grant such temporary approval may result in destruction of or injury to such carrier or carrier properties sought to be acquired or to interfere substantially with their future usefulness in the performance of adequate and continuous service to the public."

5. The support filed on behalf of this application indicates that the Transferor sold its certificate and operating equipment at public auction and is not now in a position to operate the authority. The intervention of Speedway asserts that the authority is dormant and should not be transferred. However, the Commission's annual report records show that the Transferor operated the authority in the past year.

6. The Commission finds due to the facts stated in paragraph 5 above, that failure to grant the application could result in injury to the certificate and ultimately effect service to the public. Therefore, the Commission will grant the application.

7. The Applicant has adequate equipment and financial resources to begin immediate service within the scope of the authority to be operated, and is willing, ready, and able to operate under all Commission rules and regulations governing carriers by motor vehicle.

8. This application for temporary approval is in the public interest and should be granted.

9. The Applicant is advised that the granting of an temporary approval makes no presumption that permanent authority will be granted.

THEREFORE THE COMMISSION ORDERS THAT:

1. Ken Swan, doing business as Ken Swan Truck Line, is granted temporary approval to conduct operations under Certificate of Public Convenience and Necessity PUC No. 2371&I for a period of 165 days commencing from the mailed date of this Order.

2. Ken Swan, doing business as Ken Swan Truck Line, shall not commence operations until all requirements have been met and notice in writing has been received from the Commission that the Applicant is in compliance and may begin service.

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 decision.

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

DONE IN OPEN MEETING on May 27, 1992.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners

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TRANSFeree:

Ken Swan
dba Ken Swan Truck Line
P. O. Box 254
Woodrow, CO 80757

TRANSFeree'S ATTORNEY

Lee E. Lucero, Esq.
L. E. LUCERO & ASSOCIATES, P.C.
651 Chambers Road
Aurora, CO 80011-7127

TRANSFEROR:

Don Peppel
dba Deer trail Truck Line
P. O. Box 127
Deer Trail, CO 80105

INTERVENOR:

Speedway Transportation, Inc.
P. O. Box 647
Holdrege, NE 68949

INTERVENOR'S ATTORNEY:

Charles Kimball, Esq.
KIMBALL & NESPOR, P.C.
1775 Sherman Street, Suite No 1500
Denver, CO 80203

MISCELLANEOUS:

Brad Mallon, Director
Office of Policy & Research
Dept. of Regulatory Agencies
1560 Broadway, Suite No. 1550
Denver, CO 80202

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