

Decision No. C04-1032

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 04A-433CP-LEASE-ETA

THE APPLICATION OF OWNER/DRIVER UNITED CORPORATION DOING BUSINESS AS BLUE SKY SHUTTLE FOR EMERGENCY TEMPORARY APPROVAL TO ALLOW GOLDEN WEST COMMUTER, LLC TO ASSUME OPERATIONAL CONTROL OF CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY PUC NO. 55725.

**COMMISSION ORDER GRANTING
EMERGENCY TEMPORARY APPROVAL**

Mailed Date: September 1, 2004

Adopted Date: August 25, 2004

I. BY THE COMMISSION:

A. Statement

1. On August 17, 2004, Owner/Driver United Corporation doing business as Blue Sky Shuttle (Blue Sky Shuttle), filed an application for emergency temporary approval to allow Golden West Commuter, LLC (Golden West Commuter) to assume operational control of Certificate of Public Convenience and Necessity (CPCN) PUC No. 55725 pending Commission consideration of the related application to permanently lease the certificate.

2. Pursuant to § 40-6-120(2), C.R.S., the Commission may grant temporary approval of a lease of a certificate "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." Section 40-6-120(4), C.R.S., further states: "If the Commission is of the opinion that an emergency exists, it may issue emergency temporary authority or approval at once by

making specific reference in its order to the circumstances constituting the emergency, in which case no notice need be given, but any such emergency authority or approval shall expire no later than thirty days after it was issued."

B. Findings of Fact

3. Boulder Express, LLC dba Boulder Express Shuttle was granted approval to transfer CPCN PUC No. 55725 to Blue Sky Shuttle by Decision No. C04-0421 in Docket No. 04A-100CP on April 29, 2004. Blue Sky Shuttle is authorized by CPCN PUC No. 55725 to provide call-and-demand limousine service between Denver International Airport (DIA) and points in the southeastern portion of the Denver metropolitan area.

4. Golden West Commuter is authorized to provide scheduled service between Denver International Airport and points in the western portion of the Denver metropolitan area. Golden West Commuter has had an airport customer and ticket counter at DIA since the airport opened in 1995.

5. In support of this application Blue Sky Shuttle states "We are currently without a customer service and ticket counter at DIA. Passengers are forced to search out Blue Sky Shuttle on the outer rungs of the airport without assistance. This is impeding service to the public. Blue Sky Shuttle has a number of convention bookings coming up in the immediate future. It will be difficult to service these passengers adequately without the customer service and ticket counter these people rely on to assist them with their travel plans. No new service is being requested in this application only the ability to more adequately serve passengers under an existing certificate."

6. The information filed by Blue Sky Shuttle in support of this emergency temporary authority application is rather limited. The application does not include any statement regarding the status of Blue Sky Shuttle's Public Liability and Property Insurance. Common Carrier Rule 4 (CCR) 723-31-12.2 requires every common carrier to obtain and keep in force the appropriate Public Liability and Property Insurance. The Commission has received notice from Blue Sky Shuttle's insurance carrier, Lincoln General Insurance Company, that Blue Sky Shuttle's liability insurance currently on file with the Commission will be cancelled as of September 4, 2004.

7. Therefore, the Commission will take into consideration that Blue Sky Shuttle may have to cease all operations as of September 4, 2004. The cessation of service by Blue Sky Shuttle could decrease the scheduled and call-and demand service that is presently available to the traveling public.

8. Granting this application will allow potential passengers to more easily find the services currently provided under CPCN PUC No. 55725, thus preventing harm to the CPCN.

C. Conclusions

9. The Commission finds that Blue Sky Shuttle has shown that a failure to grant emergency temporary approval of an assumption of operational control to Golden West Commuter could result in injury to CPCN PUC No. 55725 and ultimately affect service to the public.

10. Golden West Commuter has adequate equipment and financial resources to begin immediate service within the scope of the authority sought.

11. This application for temporary approval is in the public interest.

12. Blue Sky Shuttle and Golden West Commuter are advised that the grant of temporary approval of an assumption of operational control creates no presumption that permanent lease approval will be granted.

II. ORDER

A. The Commission Orders That:

1. The application for emergency temporary approval of an assumption of operational control by Golden West Commuter of Certificate of Public Convenience and Necessity PUC No. 55725 as filed by Blue Sky Shuttle is granted.

2. Golden West Commuter is granted emergency temporary approval to assume operational control of Certificate of Public Convenience and Necessity PUC No. 55725 for a period of 30 days commencing from the Mailed Date of this Order.

3. Golden West Commuter shall operate Certificate of Public Convenience and Necessity PUC No. 55725 in accordance with all applicable Commission rules and regulations.

4. Golden West Commuter shall not assume operational control of Certificate of Public Convenience and Necessity PUC No. 55275, until it has adopted the tariff of Blue Sky Shuttle and it has received notice in writing from the Commission stating that it is in compliance and may begin service.

5. 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.

6. This Order is effective on its Mailed Date.

**B. ADOPTED IN THE COMMISSIONERS' WEEKLY MEETING
August 25, 2004**

(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

CARL MILLER

Commissioners