

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 03A-021CP-TA-EXT.

THE APPLICATION OF HOTELS OF DENVER MOUNTAIN CARRIER, INC., DOING BUSINESS AS DENVER MOUNTAIN EXPRESS, FOR TEMPORARY AUTHORITY TO EXTEND OPERATIONS UNDER CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY PUC NO. 55519.

**COMMISSION ORDER DENYING
TEMPORARY AUTHORITY**

Mailed Date: February 6, 2003
Adopted Date: February 5, 2003

I. BY THE COMMISSION:

A. Statement

1. On January 15, 2003, Hotels of Denver Mountain Carrier, Inc., doing business as Denver Mountain Express (Denver Mountain Express), filed an application for temporary authority to extend operations under Certificate of Public Convenience and Necessity (CPCN) PUC No. 55519 to include the transportation of passengers and their baggage, on schedule: (I) Between Breckenridge, Frisco, Silverthorne, Dillon, and Keystone, Colorado, on the one hand, and Black Hawk and Central City, Colorado, on the other hand, via Colorado Highway 9, Interstate 70, U.S. Highway 6, and Colorado Highways 119 and 279, serving all intermediate points; and (II) Between Edwards, Beaver Creek, Avon, and Vail, Colorado, on the one hand, and Black Hawk and Central City, Colorado, on the other hand, via U.S. Highway 6, Interstate 70, and Colorado Highways 119 and 279, serving all intermediate points.

2. The Commission gave notice of the application on January 21, 2003.

3. There are no interventions opposing a grant of the application. However, Aces & Eights Casino Services, Inc., may provide scheduled service, under Certificate of Public Convenience and Necessity CPCN PUC No. 48380, between Breckenridge, Colorado, and Central City, Colorado; and may also provide scheduled service between Vail, Avon, and Beaver Creek, Colorado, and Black Hawk and Central City, Colorado.

4. Denver Mountain Express currently has Commission authority under Certificate of Public Convenience and Necessity CPCN PUC No. 55519 to provide the following services:

1) transportation of passengers and their baggage, in scheduled service, between all points in the following defined area in downtown Denver, on the one hand: beginning at the intersection of 15th Street and Blake Street; then northeast along Blake Street to 18th Street; then southeast along 18th Street to Broadway; then south along Broadway to Colfax Avenue; then west along Colfax Avenue to 15th Street; then northwest along 15th Street to the point of beginning, and, on the other hand, Loveland Ski Resort; Keystone Ski Resort; Dillon, Colorado; Silverthorne, Colorado; Copper Mountain Ski Resort; Vail, Colorado; and Beaver Creek, Colorado; 2) transportation of passengers and their baggage: (A) in scheduled service, between any one point other than a hotel, motel, motor inn, or other place of public lodging, located within a one and one half mile radius of the Denver West Marriott, 1717 Denver West Marriott Boulevard, Golden, Colorado, on the one hand, and on the other hand, all points within a three-mile radius of each of the following points: the Hyatt Regency Hotel, Beaver Creek, Colorado; the Vail Transportation Center, Vail, Colorado; the Keystone Lodge, Keystone, Colorado; the post office, Breckenridge, Colorado; the Mountain Plaza Building, Copper Mountain, Colorado; and the intersection of Colorado Highway 9 and U.S. Interstate Highway 70, Silverthorne, Colorado; (B) in scheduled service, between Denver International Airport, on the one hand, and on the other

hand, all points within a three-mile radius of each of the following points: the Keystone Lodge, Keystone, Colorado; the post office, Breckenridge, Colorado; the Mountain Plaza Building, Copper Mountain, Colorado; and the intersection of Colorado Highway 9 and U.S. Interstate 70, Silverthorne, Colorado; and (C) in call-and-demand limousine service, between all points in the Counties of Clear Creek and Summit, State of Colorado.

5. 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."

6. Denver Mountain Express 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 Denver Mountain Express fails to meet either test, the application must be denied.

B. Findings of Fact

7. The support filed on behalf of this application consists of five letters written by employees of resorts or hotels in located in Frisco, Silverthorne, or Vail, Colorado. The authors do express a desire to offer additional services, as transportation to and from Central City and Black Hawk, to their guests. The assistant general manager of the Quality Inn & Suites states "I believe that most of our visitors would utilize any transportation services provided by Denver Mountain Express, if they became available. As a safe and established alternative that leaves on a regular scheduled I feel it can provide more options for their vacation experience." The general manager of the Evergreen Lodge in Vail states "The staff and management of the Evergreen Lodge Vail are constantly looking for ways to improve our guest's experience during their visits.

We feel that being able to offer transportation service linking guests to the Black Hawk and Central City markets would be of benefit.” The authors of the other letters also make similar statements. However, none of these letters name any specific circumstances that indicate an immediate and urgent need exists for the transportation service requested in this application.

C. Conclusions

8. An immediate and urgent need for the requested transportation services has not been shown to exist, and it has not been shown that no other carrier is able to provide the service requested by this application.

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

10. 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:

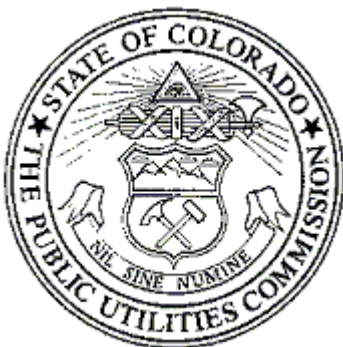
1. The application for temporary authority filed by Hotels of Denver Mountain Carrier, Inc., doing business as Denver Mountain Express, is denied.

2. 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.

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

B. ADOPTED IN THE COMMISSIONERS' WEEKLY MEETING February 5, 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-021CP-Extension-TA

DECISION NO. C03-0143

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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:

Hotels of Denver Mountain Carrier, Inc.
dba Denver Mountain Express
1550 Larimer Street, #280
Denver, CO 80202

ROUTE:

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

SEAL



THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

A handwritten signature in cursive script that reads "Bruce N. Smith".

BRUCE N. SMITH
Director