

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO**

DOCKET NO. 03A-040BP-EXTENSION-ETA

---

THE APPLICATION OF MOBILITY TRANSPORTATION & SERVICES, INC. FOR EMERGENCY TEMPORARY AUTHORITY TO EXTEND OPERATIONS UNDER CONTRACT CARRIER PERMIT NO. B-9798.

---

**COMMISSION ORDER DENYING  
EMERGENCY TEMPORARY AUTHORITY**

---

---

Mailed Date: February 7, 2003

Adopted Date: February 5, 2003

**I. BY THE COMMISSION:**

**A. Statement, Findings and Conclusions**

1. On January 29, 2003, Mobility Transportation & Services, Inc. (Mobility Transportation), filed an application for emergency temporary authority to extend operations under Contract Carrier Permit No. B-9798 to include the transportation of passengers and their baggage, between the facilities of Craig Rehabilitation Hospital, at or near 3425 South Clarkson Street, Englewood, Colorado, on the one hand, and, on the other hand, all points in the State of Colorado. This application is restricted as follows: (1) To providing transportation service for only Craig Rehabilitation Hospital, at or near 3425 South Clarkson Street, Englewood, Colorado; and (2) To providing transportation service in wheelchair accessible vans.

2. 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." Section 40-6-120(4), C.R.S., further states: "If the Commission is of the opinion that an emergency exists, it may issue

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."

3. Mobility Transportation must meet a two-fold test: first, that there is an emergency need for the transportation services, and second, that there is no existing carrier capable of meeting the need. If Mobility Transportation fails to meet either test, the application must be denied.

4. Mobility Transportation has authority under Contract Carrier Permit No. B-9798 as follows: Transportation of passengers and their baggage between points within the following described area: beginning at the intersection of 135th Avenue, as extended, and McIntyre Street, as extended; thence east along 135th Avenue, as extended, to its intersection with Gun Club Road; thence south along Gun Club Road to its intersection with Titan Road, as extended, to its intersection with McIntyre Street, as extended; thence north along McIntyre Street, as extended, to the point of beginning. Restricted to providing service for only Denver Options, Inc., and North Metro Community Services for Developmentally Disabled, Inc.

5. The support filed on behalf of this application consists of a letter from Ronald Branish, the vice-president of finance of Craig Hospital. Mr. Branish states " Craig Hospital is a nationally recognized hospital that specializes in the treatment and care of spinal cord and traumatic brain injury patients. Most of these returning patients are disabled and require the use of wheelchair for their mobility. In order to transport them to our facility in Englewood, we require specialized transportation services and vehicles. Consequently, we need Mobility Transportation & Services, Inc. to provide such services to our returning clientele." Mr.

Branish's letter appears to indicate that the transportation service it is requesting that Mobility Transportation provide involves the transportation of individuals who require the use of a wheelchair. Mr. Branish and Mobility Transportation are advised that pursuant to §40-11-102(2), C.R.S. Nothing in this article shall apply to any motor vehicle carrier as defined by section 40-10-101 (4)(a), nor to a private individual who carries a neighbor or a friend on a trip, nor to hearses or ambulances or other emergency vehicles, nor to vehicles designed and used for the nonemergency transportation of individuals with disabilities as defined in section 42-7-510(2)(b)." These vehicles are defined in §42-7-510(2)(b), C.R.S. as follows: "As used in subsection (2), a 'motor vehicle designed and used for the nonemergency transportation of individuals with disabilities means any motor vehicle designed to facilitate the loading of individuals with physical disabilities confined to a wheelchair."

6. Therefore the type of service requested by Mobility Transportation in this application and the transportation service described in the letter from Mr. Branish appears to be exempt from regulation by the Commission. Mobility Transportation is not required to obtain a permit from the Commission to provide the transportation named in §40-11-102(2) and 42-7-510(2)(b), C.R.S.

7. However, Mobility Transportation is also advised that the transportation of individuals for compensation, who are not confined to a wheelchair, in a motor vehicle designed to facilitate the loading of individuals with physical disabilities confined to a wheelchair is a regulated transportation service and does require a permit from this Commission.

8. The Commission finds that an emergency need for the requested transportation services has not been shown to not exist.

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

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

## **II. ORDER**

### **A. The Commission Orders That:**

1. The application for emergency temporary authority filed by Mobility Transportation & Services, Inc., 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-040BP-Extension-ETA

DECISION NO. C03-0148  
(Page 1 of 1 Page)

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:

Mobility Transportation & Services, Inc.  
4275 Milwaukee Street  
Denver, CO 80216

APPLICANT'S ATTORNEY:

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

ROUTE:

6, 60, and all other 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