

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

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

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

**COMMISSION ORDER GRANTING IN PART
TEMPORARY AUTHORITY**

Mailed Date: February 25, 2003
Adopted Date: February 19, 2003

I. BY THE COMMISSION:

A. Statement

1. On January 29, 2003, Mobility Transportation & Services, Inc. (Mobility Transportation), filed an application for temporary authority to extend operations under Contract Carrier Permit No. B-9798 to include (1) 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, all points in the State of Colorado, on the other hand; and (2) to eliminate Denver Options, Inc., as a customer. This application is restricted as follows: (A) 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. The Commission gave notice of the application on February 10, 2003.

3. There are no interventions opposing a grant of the application.

4. 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."

5. Mobility Transportation 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 Mobility Transportation fails to meet either test, the application must be denied.

B. Findings of Fact

6. 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.

7. Mobility Transportation also filed an application for emergency temporary authority on January 29, 2003, to provide the same extension of service named in this temporary authority application. The Commission denied the grant of the emergency temporary authority in Decision C03-0148 mailed February 7, 2003.

8. The support filed on behalf of this application consists of a letter from Ronald Branish, the vice-president of finance of Craig Rehabilitation 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 a 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. Without this specialized service, the patient's well being could be in jeopardy. This specialized service is not available from other carriers such as taxis, limos, vans, etc."

9. Mr. Branish's letter appears to indicate that the transportation service being provided by Mobility Transportation for Craig Rehabilitation Hospital and the service it is requesting that Mobility Transportation provide usually but not always involves the transportation of individuals who require the use of a wheelchair. Mr. Branish and Mobility Transportation are advised that the transportation of individuals who require the use of a wheelchair is addressed in §40-11-102(2), C.R.S. as follows:

"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.'"

10. Therefore, the type of service requested by Mobility Transportation in this application and the majority of 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.

11. 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.

12. However, Mr. Branish's statement that "Most of these returning patients are disabled and require the use of a wheelchair for their mobility" can be interpreted to imply that Mobility Transportation may occasionally be requested by Craig Rehabilitation Hospital to transport passengers who are not confined to a wheelchair. Therefore, to ensure that the specialized service being provided by Mobility Transportation to the patients of Craig Rehabilitation Hospital, who may or may not require the use of a wheelchair, the Commission finds that an immediate and urgent need for the requested transportation services has been shown to exist, and it has not been shown that there is any other carrier capable of providing the service

C. Conclusions

13. An immediate and urgent need for the requested transportation services has been shown to exist, and it has not been shown that there is another carrier capable of providing the service.

14. Mobility Transportation has adequate equipment and financial resources to begin immediate service within the scope of the authority sought.

15. This application for temporary authority is in the public interest.

16. Mobility Transportation is advised that the grant of a temporary authority creates no presumption that a permanent authority will be granted.

II. ORDER

A. The Commission Orders That:

1. Mobility Transportation & Services, Inc. is granted temporary authority to extend operations under Contract Carrier Permit No. B-9798 for a period of 180 days commencing from the Mailed Date of this Order, with authority as set forth in the Appendix.

2. Mobility Transportation & Services, Inc. shall operate in accordance with all applicable Commission rules and regulations.

3. Mobility Transportation & Services, Inc. shall not extend operations until it has filed a proper tariff and pay the appropriate annual vehicle identification fee. Mobility Transportation & Services, Inc. may not begin operations until these requirements have been met and notice in writing has been received from the Commission stating it is in compliance and may begin service.

4. If Mobility Transportation & Services, Inc. does not comply with the requirements of this Order within 30 days of its effective date, then the temporary authority to extend operations shall be void. For good cause shown, the Commission may grant additional time for compliance if the request for additional time is filed within the 30 days.

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 immediately on its Mailed Date.

**B. ADOPTED IN THE COMMISSIONERS' WEEKLY MEETING
February 19, 2003.**

(S E A L)



ATTEST: A TRUE COPY

Bruce N. Smith

Bruce N. Smith
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

GREGORY E. SOPKIN

POLLY PAGE

JIM DYER

Commissioners

For 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, all points in the State of Colorado, on the other hand.

RESTRICTIONS: This temporary authority is restricted as follows:

- I. To providing transportation service for only Craig Rehabilitation Hospital, at or near 3425 South Clarkson Street, Englewood, Colorado; and
- II. To providing transportation service in wheelchair accessible vans.

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

CERTIFICATE OF SERVICE

Docket No. 03A-040BP-Extension-TA

DECISION NO. C03-0193
(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

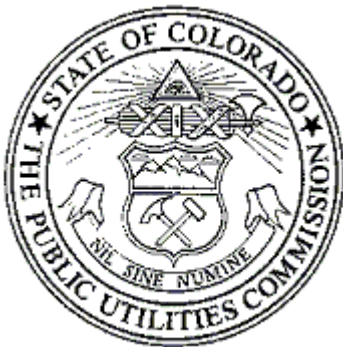
APPLICANT'S ATTORNEY:

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

ROUTE:

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

SEAL



THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

BRUCE N. SMITH
Director