

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 03A-055CP-TRANSFER-TA

THE APPLICATION OF SCHAFER-SCHONEWILL & ASSOCIATES, INC, DOING BUSINESS AS ENGLEWOOD EXPRESS &/OR WOLF EXPRESS SHUTTLE, FOR TEMPORARY APPROVAL TO ALLOW HOTELS OF DENVER MOUNTAIN CARRIER, INC., DOING BUSINESS AS DENVER MOUNTAIN EXPRESS, TO ASSUME OPERATIONAL CONTROL OF CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY PUC NO. 50790, 52940, AND 55363.

**COMMISSION ORDER GRANTING
TEMPORARY APPROVAL**

Mailed Date: March 10, 2003

Adopted Date: March 5, 2003

I. BY THE COMMISSION:

A. Statement

1. On February 11, 2003, Schafer-Schonewill & Associates, Inc, doing business as Englewood Express &/or Wolf Express Shuttle (Englewood Express), filed an application for temporary approval to allow Hotels of Denver Mountain Carrier, Inc., doing business as Denver Mountain Express (Denver Mountain Express), to assume operational control of Certificate of Public Convenience and Necessity (CPCN) PUC Nos. 50790, 52940, and 55363 pending Commission consideration of the related application to permanently transfer the certificates.

2. The Commission gave notice of the application on February 24, 2003.

3. Boulder Express LLC, doing business as Boulder Express Shuttle (Boulder Express Shuttle) filed an intervention on March 3, 2003, opposing a grant of the application.

4. Pursuant to § 40-6-120(2), C.R.S., the Commission may grant temporary approval of a certificate transfer "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."

B. Findings of Fact

5. Boulder Express Shuttle has authority under Certificate of Public Convenience and Necessity CPCN PUC No. 54008 to provide scheduled and call-and-demand limousine service between points in the northern Denver metropolitan area, on the one hand, and Denver International Airport, on the other hand.

6. Englewood Express was granted emergency temporary approval on February 13, 2003, by Decision No. C03-0173 to allow Denver Mountain Express to assume operational control of CPCN's PUC No.s 50790, 52940, and 55363 for a period of 30 days.

7. In support of this application, Englewood Express states that as a result of the incidents that occurred on September 11, 2001, and the recent economic downturn, it has had to reduce its fleet to less than a one-third of its level of vehicles operated on September 10, 2001. The reduction in the number of passengers being transported by Englewood Express has resulted in a significant decrease in revenue. The application states Mr. Khalil Laleh, the owner of 100% of the stock of Englewood Express, "has had to invest a tremendous amount of personal savings to keep Wolf (Englewood Express) afloat." The application also states "Mr. Laleh's health has degenerated to the extent that he is no longer able to devote the time, finances, and energy to keep Wolf (Englewood Express) running. Because his company is undercapitalized, and because

Mr. Laleh's health concerns prevent him from investing any more money into the company, it became imperative that Mr. Laleh locate a buyer for the company."

8. Two letters were filed in support of this application. One letter is from Dr. Timothy Judd. Dr. Judd states "Mr. Laleh has been a medical patient of his office for more than ten years. Recently, in reviewing his health condition it has become clear that he is undergoing increasingly significant elevated levels of stress, which in turn, are having a negative effect on this health. This stress appears to be resulting from his struggling transportation business. As a result of recent medical examinations it has become my considered opinion that in the interest of Mr. Laleh's health, Mr. Laleh should immediately make every attempt to reduce the business creating his stress levels." The other letter is from Mr. James D. Rapp, the general manager of Englewood Express. Mr. Rapp states "The last two years have been turbulent ones for the transportation industry. These tribulations have taken their toll on Mr. Laleh. I have been personally concerned about his continued health ever since he advised me that his attending doctor has advised him to get out of the transportation business. In recent months, when he had to advance his personal funds to keep the operation going, I could see additional stress and its bad effects. Mr. Laleh now has the opportunity to relieve himself of the common carrier burden while protecting the public who has grown to rely on Wolf's service."

9. The information submitted with this application does indicate that Mr. Laleh's health condition and his inability to maintain Englewood Express in a financially viable manner may interfere substantially with Englewood Express' ability to provide adequate and continuous service to the public.

C. Conclusions

10. Therefore, the Commission finds that a failure to grant temporary approval of an assumption of operational control could result in injury to Certificates of Public Convenience and Necessity (CPCN) PUC Nos. 50790, 52940, and 55363 and ultimately affect service to the public.

11. Hotels of Denver Mountain Carrier, Inc., doing business as Denver Mountain Express, has adequate equipment and financial resources to begin immediate service within the scope of the authority sought.

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

13. Schafer-Schonewill & Associates, Inc, doing business as Englewood Express &/or Wolf Express Shuttle and Hotels of Denver Mountain Carrier, Inc., doing business as Denver Mountain Express, are advised that the grant of temporary approval of an assumption of operational control creates no presumption that permanent transfer approval will be granted.

II. ORDER**A. The Commission Orders That:**

1. The application for temporary approval of an assumption of operational control filed by Schafer-Schonewill & Associates, Inc, doing business as Englewood Express &/or Wolf Express Shuttle, is granted.

2. Hotels of Denver Mountain Carrier, Inc., doing business as Denver Mountain Express, is granted temporary approval to assume operational control of Certificates of Public

Convenience and Necessity (CPCN) PUC Nos. 50790, 52940, and 55363 for a period of 150 days commencing from the Mailed Date of this Order.

3. Hotels of Denver Mountain Carrier, Inc., doing business as Denver Mountain Express, shall operate in accordance with all applicable Commission rules and regulations.

4. Hotels of Denver Mountain Carrier, Inc., doing business as Denver Mountain Express, shall not assume operational control until it has adopted the tariffs and time schedules of Schafer-Schonewill & Associates, Inc, doing business as Englewood Express &/or Wolf Express Shuttle, and it has received notice in writing from the Commission that it is in compliance and may begin service.

5. If Hotels of Denver Mountain Carrier, Inc., doing business as Denver Mountain Express, does not comply with the requirements of this Order within 30 days of its effective date, then the temporary approval 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.

6. 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.

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

**B. ADOPTED IN THE COMMISSIONERS' WEEKLY MEETING
March 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-055CP-Transfer-TA

Decision No. C03-0252
(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:

TRANSFEROR:

Schafer-Schonewill & Associates, Inc
dba Englewood Express &/or Wolf Express
Shuttle
422 Broadway Unit A
Denver, CO 80203

TRANSFEROR'S ATTORNEY:

Richard J. Bara
1155 Sherman Street Suite No. 315
Denver, CO 80203

TRANSFeree:

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.

TRANSFeree'S ATTORNEY:

Robert J. Hooke
Suite No. 250
Englewood, CO 80112

INTERVENOR:

Boulder Express, LLC dba Boulder Express
Shuttle
1412 West 104th Avenue, Suite 114
Northglenn, CO 80234

INTERVENOR'S ATTORNEY:

Charles J. Kimball
KIMBALL & NESPOR, P.C.
5400 Ward Road, Building III, Suite 150
Arvada, CO 80002

SEAL



THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

BRUCE N. SMITH
Director