

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 03A-056BP-TA

THE APPLICATION OF L & A TRANSPORTATION COMPANY FOR TEMPORARY AUTHORITY TO CONDUCT OPERATIONS AS A CONTRACT CARRIER BY MOTOR VEHICLE FOR HIRE.

**COMMISSION ORDER GRANTING IN PART
TEMPORARY AUTHORITY**

Mailed Date: March 10, 2003

Adopted Date: March 5, 2003

I. BY THE COMMISSION:

A. Statement

1. On February 10, 2003, L & A Transportation Company (L & A Transportation) filed an application for temporary authority to conduct operations as a contract carrier by motor vehicle for hire for the transportation of passengers and their baggage, between all points in the Counties of Adams, Arapahoe, Denver, Douglas, and Jefferson, State of Colorado. This application is restricted as follows: (1) To providing transportation service for only Arapahoe County Transportation Services Department, 2009 West Littleton Boulevard, Littleton, Colorado 80120; (2) Against any transportation service that originates or terminates at Denver International Airport; and (3) To the use of wheelchair accessible vehicles.

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

3. Metro Taxi, Inc., filed an intervention on March 3, 2003, opposing a grant of the application.

4. Kids Wheels, Inc., filed an untimely intervention in opposition to this application on March 4, 2003.

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. L & A Transportation Company 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 L & A Transportation Company fails to meet either test, the application must be denied.

B. Findings of Fact

7. Metro Taxi, Inc., has authority under Certificate of Public Convenience and Necessity (CPCN) PUC No. 1481 to provide taxi service between all points in the Counties of Adams, Arapahoe, Boulder, Denver, Douglas, and Jefferson, State of Colorado.

8. Kids Wheels, Inc., has authority under CPCN PUC No. 50096 to provide call-and-demand limousine service between points within the Denver metropolitan area beginning at the intersection of Colorado Highway 93, as extended, and 120th Avenue as extended; then east along 120th Avenue as extended, to its intersection with Gun Club Road; then south along Gun Club Road, as extended, to its intersection with Lincoln Avenue; then west along Lincoln Avenue as extended, to its intersection with Colorado Highway 93, as extended; then north along Colorado Highway 93, as extended, to the point of beginning.

9. Ken Gloss, the director of Arapahoe County Transportation Services, filed a letter in support of this application. In this letter, Mr. Gloss states “ the Board of Arapahoe County Commissioners has an agreement with L & A Transportation for specialized transportation service in Adams, Arapahoe, Boulder, Broomfield, Denver, Douglas, and Jefferson Counties. The County (Arapahoe) needs to continue to contract with L & A Transportation for additional critical service.” Arapahoe County Transportation Service is currently the “broker’ and administrator for non-emergent medical transportation services for Medicaid clients for the above named counties. Therefore, Arapahoe County Transportation Service is the only entity that may authorize non-emergent medical transportation services for Medicaid clients residing in the above named counties.

10. Heather K. Du Mez, the facility administrator of the DaVita Englewood Dialysis Center, also filed a letter in support of this application. In this letter Ms. Du Mez states “L & A Transportation provides transportation for 8 of our Hemodialysis patients, and it is imperative that their transportation not be revoked. L & A Transportation has provided an excellent service to DaVita and to our patients. Without L & A Transportation’s services, our patients will be unable to get to dialysis, which is life threatening.”

11. The application filed by L & A Transportation names eight individuals/clients that require transportation to and from three named clinics. These clients live in the southern portion of the Denver metropolitan area. The addresses of the clinics that the clients are transported to and from are 3247 South Washington Street, Englewood, CO; 990 East Harvard Avenue, Denver, CO; and 8381 Southpark Lane, Littleton, CO. The application does not state that each of these eight clients require the use of a wheelchair for the transportation to and from the clinics.

However, the designated agent for L & A Transportation and an employee of the Englewood Dialysis Center have informed the Commission that each of these eight named clients does require the use of a wheelchair for the transportation to and from the clinics.

12. L & A Transportation is advised that §40-11-102(2), C.R.S. states “Nothing in this article shall apply to any motor vehicle carrier as defined by 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.”

13. Therefore, the type of service described by the representative of L & A Transportation and the employee of the DaVita Dialysis Center appears to be exempt from regulation by the Commission. L & A 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.

14. However, L & A Transportation is advised that the transportation of individuals for compensation, who are not confined to a wheelchair, in the type of motor vehicle described in §42-7-510(2)(b), C.R.S., is a regulated transportation service and does require a permit from this Commission. If L & A Transportation transports any ambulatory passengers, it is required to obtain a permit from the Commission.

C. Conclusions

15. Therefore, to ensure the continued safe service being provided by L & A Transportation for the patients currently being transported to and from their dialysis appointments, 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 are any other carriers capable of providing the service. However, the service will be restricted to the three clinic locations named in the application.

16. L & A Transportation Company has adequate equipment and financial resources to begin immediate service within the scope of the authority sought.

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

18. L & A Transportation Company 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. L & A Transportation Company is granted temporary authority in part to conduct operations as a contract carrier for a period of 150 days commencing from the Mailed Date of this Order, with authority as set forth in the Appendix.

2. L & A Transportation Company is granted temporary authority to provide service to and from clinics located at 3247 South Washington Street, Englewood, Colorado; 990 East Harvard Avenue, Denver, Colorado; and 8381 Southpark Lane, Littleton, Colorado.

3. L & A Transportation Company shall operate in accordance with all applicable Commission rules and regulations.

4. L & A Transportation Company shall not commence operation until it has filed with the Commission certificates of insurance as required by Commission rules. L & A Transportation Company shall file a proper tariff and pay the appropriate annual vehicle identification fee. L & A Transportation Company 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.

5. If L & A Transportation Company does not comply with the requirements of this Order within 30 days of its effective date, then the temporary authority 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 05, 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

Transportation of passengers and their baggage between all points in the Counties of Adams, Arapahoe, Denver, Douglas, and Jefferson, State of Colorado.

This **temporary permit** is restricted as follows: (1) to providing transportation service for only Arapahoe County Transportation Services Department, 2009 West Littleton Boulevard, Littleton, Colorado 80120; (2) against any transportation service that originates or terminates at Denver International Airport; (3) to the use of wheelchair accessible vehicles; and (4) to providing transportation service that originates or terminates at the following locations: (A) 3247 South Washington Street, Englewood, CO; (B) 990 East Harvard Avenue, Denver, CO; and (C) 8381 Southpark Lane, Littleton, CO.

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

CERTIFICATE OF SERVICE
DOCKET NO. 03A-056BP-TA

Decision No. C03-0253
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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:

L & A Transportation Company
100 Oneida Street
Denver, CO 80220

INTERVENOR:

Metro Taxi, Inc.
5909 East 38th Avenue
Denver, CO 80207

INTERVENOR'S ATTORNEY:

Charles M. Williams, P.C.
303 East 17th Avenue, Suite 888
Denver, CO 80203

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