

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 03A-067CP-TA

THE APPLICATION OF KYLE BUIS, DOING BUSINESS AS PEGASUS TRANSIT, FOR TEMPORARY AUTHORITY TO CONDUCT OPERATIONS AS A COMMON CARRIER BY MOTOR VEHICLE FOR HIRE.

**COMMISSION ORDER DENYING
TEMPORARY AUTHORITY**

Mailed Date: March 10, 2003

Adopted Date: March 5, 2003

I. BY THE COMMISSION:

A. Statement

1. On February 20, 2003, Kyle Buis, doing business as Pegasus Transit (Pegasus Transit), filed an application for temporary authority to conduct operations as a common carrier by motor vehicle for hire for transportation of passengers and their baggage, in scheduled service: (1) between Ft. Collins, CO, and Greeley, CO, serving all intermediate points, including 3836 E. Mulberry, Ft. Collins, CO, the Park-and-Ride at I-25 and Harmony Road, Ft. Collins, CO, and the Park and Ride at 5450 Stone Creek Circle, Loveland, CO; (2) between Greeley, CO, Evans, CO, and Denver, CO, serving all intermediate points, including Ft. Lupton, CO, and Brighton, CO; (3) between Ft. Collins, Co and Denver, CO, serving all intermediate points, including the Park-and-Ride at I-25 and Harmony Road, Ft. Collins, CO, the Park and Ride at 5450 Stone Creek Circle, Loveland, CO, and the Park and Ride at I-25 and Colorado Highway 119, Longmont, CO; (4) between Colorado Springs, CO, and Denver, CO, serving all intermediate points, including Monument Park and Ride at I-25 and Exit 161, and the Park and Ride at I-25

and Exit 181, and the Arapahoe Park and Ride at I-25 and Yosemite, Englewood, CO; and (5) authority is also expressly requested to tack Items 1, 2, 3, and 4, with each other to form a through transportation service.

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

3. Interventions opposing a grant of the application have been filed by Greeley Airport Shuttle, Inc., dba Rocky Mountain Shuttle, Ltd., Shamrock Taxi of Fort Collins, Inc. dba Shamrock Shuttle, Inc., and Benjamin R. Sagenkahn dba Peak Transit.

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. Pegasus Transit 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 Pegasus Transit fails to meet either test, the application must be denied.

B. Findings of Fact

6. Greeley Airport Shuttle, Inc., dba Rocky Mountain Shuttle, Ltd., has authority under Certificate of Public Convenience and Necessity (CPCN) PUC No. 52483 to provide scheduled serviced between Denver International Airport, on the hand, and Greeley, LaSalle, Platteville, Fort Lupton, and Brighton, Colorado, on the other hand.

7. Benjamin R. Sagenkahn dba Peak Transit has authority under CPCN PUC No. 55275 to provide scheduled service between the Colorado Springs Municipal Airport, on the one hand, and Denver International Airport, on the other hand.

8. Shamrock Taxi of Fort Collins, Inc., dba Shamrock Shuttle, Inc., has authority under CPCN PUC No. 49759 to provide scheduled service between Fort Collins, and Loveland, Colorado, on the one hand, and Denver International Airport, on the other hand.

9. Therefore, each of the intervenors has authority to provide scheduled service over a portion of the area named in this application.

10. The support filed on behalf of this application includes a one-page petition titled “Proposal for public transit bus service.” The petition lists abbreviations for the cities of Ft. Collins, Loveland, Longmont, Brighton, and Denver. The signers of the petition are asked to indicate “where you would like to ride” by placing a mark on these abbreviations. The signers of the petition are also asked to indicate what “time of day” they would need to be transported by placing a mark on “morning, noon, afternoon, or evening”. Twenty individuals completed the petition. However, only six of the signers included their last name. The proposal also does not include the addresses of any of the individuals who signed the petition. The individuals who signed the proposal do not include any information to indicate any immediate or urgent need exists for the service named in this application.

11. Gary K. Taylor, the Transit Services Manager of the City of Greeley Department of Public Works also submitted a letter in support of this application. In his letter, Mr. Taylor discusses a recent transportation survey completed by the North Front Range Transportation and Air Quality Council. Mr. Taylor reports that 1,237 households in Fort Collins, Loveland, and Greeley were included in the survey. Mr. Taylor states “The results of the survey underscore the need for more transportation in the region and to the Denver Metro area.” Mr. Taylor reports that “another survey completed by the North Range Transportation and Air Quality Council shows

that 30% of the workforce in Greeley and 40% of the workforce in Loveland commute outside of their city for work. Many workers travel to Fort Collins and to the Denver area.” Mr. Taylor also states “I strongly support the request to provide more public transportation between Fort Collins and Greeley and to/from the Denver area. I hope an interested transportation provider can establish a service that will meet some of the needs expressed in these surveys.” The various surveys do appear to indicate a need exists for additional public transportation between points in northern Colorado. However, Mr. Taylor statements regarding the findings of these surveys do not include any specific circumstances that indicate an immediate or urgent need exists for the transportation services requested in this application.

C. Conclusions

12. An immediate and urgent need for the requested transportation services has not been shown to exist, and it has not been shown that there are no other carriers capable of providing the service.

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

14. 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:

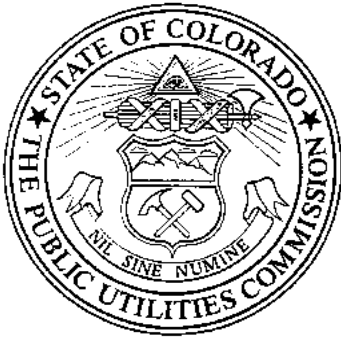
1. The application for temporary authority filed by Kyle Buis, doing business as Pegasus Transit, is denied.

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
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-067CP-TA

Decision No. C03-0254
(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:

Kyle Buis
dba Pegasus Transit
1015 M South Taft Hill Road
Fort Collins, CO 80521

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