

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 03A-079CP-EXTENSION-TA

THE APPLICATION OF RICHARD J. CALVERT FOR TEMPORARY AUTHORITY TO
EXTEND OPERATIONS UNDER CERTIFICATE OF PUBLIC CONVENIENCE AND
NECESSITY PUC NO. 55718.

**COMMISSION ORDER DENYING
TEMPORARY AUTHORITY**

Mailed Date: March 28, 2003
Adopted Date: March 26, 2003

I. BY THE COMMISSION:

A. Statement

1. On March 5, 2003, Richard J. Calvert filed an application for temporary authority to extend operations under Certificate of Public Convenience and Necessity PUC No. 55718 to include the transportation of passengers and their baggage in taxi service, in call-and-demand limousine service, in charter service, and in sightseeing service, between all points in Lake County, State of Colorado, and between said points, on the one hand, and all points in the Counties of Chaffee, Denver, Eagle, El Paso, Fremont, Garfield, Pitkin, Pueblo, and Summit, State of Colorado, on the other hand.

2. The Commission gave notice of the application on March 10, 2003.

3. Deanna Cline, doing business as Dee Hive Tours, filed an intervention opposing the grant of this 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. Richard J. Calvert 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 Richard J. Calvert fails to meet either test, the application must be denied.

B. Findings of Fact

6. Deanne Cline, doing business as Dee Hive Tours, has authority under Certificate of Public Convenience and Necessity (CPCN) PUC No. 19428 as follows: Transportation of passengers and their baggage (I) in sightseeing service between points within Leadville, Colorado, on the one hand, and all points within a 25-mile radius of the intersection of 6th and Harrison in Leadville, Colorado, on the other hand; (II) in taxi service between all points in the County of Lake, State of Colorado; (III) in charter service between all points in the County of Lake, State of Colorado, and between said points on the one hand, and all points in the State of Colorado on the other hand; (IV) in charter service between Frisco, Colorado, on the one hand, and on the other hand: (1) trailhead areas along U.S. Highway 24 between its intersection with I-70 near Dowd, Colorado and Leadville, Colorado; and (2) the Vail Pass Trailhead area. Therefore, a significant overlap exists between the authority requested in this application and the authority held by Dee Hive Tours in CPCN PUC No. 19428.

7. The support filed on behalf of this application consists of seventeen letters from employees of various businesses located in Leadville, Colorado. The authors of the letters generally express a need for additional transportation services between points in Leadville and

Lake County, on the one hand, and points in the Counties of Eagle and Summit Counties, and Denver International Airport, on the other hand. The authors of the letters describe this need for additional transportation services in a manner similar to the statements contained in the letter submitted by Carol Glenn, the owner of Centennial Enterprises & Real Estate, Inc., located in Leadville. In her letter, Ms. Glenn states: “The numerous tourists and other visitors to the area would appreciate a prompt and friendly service to take them to ski areas and other places they might be interested in. This helps us keep them in Leadville, using it as their base. For locals, a door to door service to DIA would be very useful and would be used extensively. We are always on the lookout for ways to help Leadville’s economy. We see this as a positive addition to our community.” However, Ms. Glenn’s letter does not name any circumstances that indicate an immediate or urgent need exists for the transportation services requested in this application as required by § 40-6-120(1), C.R.S.

8. The authors of the other sixteen support letters also indicate a need does exist for some type of additional public transportation to and from points in Lake County. Although the authors of these letters do express a need for additional transportation services, the letters do not name any specific circumstances that indicate an immediate or urgent need exists for the transportation services requested in this application.

9. A petition entitled “Petition for a full time taxicab & shuttle service in Lake County & Leadville, Colorado” was also submitted with the application. The petition contains only the signatures and addresses of numerous residents of Leadville, Colorado. The petition does not include any information from any of signers that indicates there is a need for taxi service or shuttle service to or from points outside of Lake County.

C. Conclusions

10. An immediate and urgent need for the requested transportation services has not been shown to exist, and therefore the application must be denied. Since the applicant failed to meet the first criteria to be granted temporary authority, we need not reach the other criteria.

11. 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 Richard J. Calvert 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 26, 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

JIM DYER

Commissioners

COMMISSIONER POLLY PAGE ABSENT.

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

CERTIFICATE OF SERVICE

DOCKET NO. 03A-079CP-Extension-TA

Decision No. C03-0311

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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:

Richard J. Calvert
P.O. Box 807
Minturn, CO 81645

INTERVENOR:

The Dee Hive Tours
506 Harrison Avenue
Leadville, CO 80461

INTERVENOR'S ATTORNEY:

Joseph J. Folz, Jr.
12343 East Cornell Avenue
Aurora, CO 80014

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