

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 03L-125CP

RE: IN THE MATTER OF THE APPLICATION OF FOUR WINDS, INC. DOING BUSINESS AS PEOPLE'S CHOICE TRANSPORTATION, INC. FOR AUTHORITY TO PUBLISH SUPPLEMENT NO. 1 TO PASSENGER TARIFF NO. 6, TO BECOME EFFECTIVE ON LESS-THAN-STATUTORY NOTICE.

**COMMISSION ORDER DENYING APPLICATION TO
CHANGE TARIFF ON LESS-THAN-STATUTORY NOTICE**

Mailed Date: April 4, 2003
Adopted Date: April 2, 2003

I. BY THE COMMISSION:

A. Statement

1. On March 27, 2003, Four Winds, Inc. doing business as People's Choice Transportation, Inc. ("People's Choice" or "Applicant") filed an application for authority to publish Supplement Number 1 to Passenger Tariff Number 6 to become effective on less-than-statutory notice. People's Choice provides scheduled service between the Denver area and Black Hawk-Central City.

2. People's Choice proposes a rate increase of fifty percent or an increase from \$10 to \$15 per passenger. The proposal will result in expected revenue increases of \$1,806,240.

3. Rule 31(f)(1) of the Commission's Rules of Practice and Procedure, 4 *Code of Colorado Regulations* 723-1, allows an order authorizing carriers to change tariffs or time schedules on less-than-statutory notice for good cause shown.

4. In support of the application, People's Choice states that insurance and fuel costs have gone up substantially in the last few years and that the rate increase is needed to offset these costs.

5. Contact between People's Choice and Commission staff indicates that notice was posted with an April 1, 2003 effective date and the Commission met on this application April 2, 2003.

6. In the filing People's Choice relies on data from the 2001 operating year and no current or pro forma data accompanied the filing.

7. Due to the Applicant's failure to file adequate information to support its request the Commission finds that good cause has not been shown for the approval of the proposed changes in Supplement No. 1 to Passenger Tariff No. 6 on less-than-statutory notice and that the application should be denied.

II. ORDER

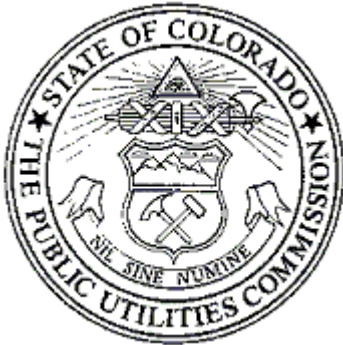
A. The Commission Orders That:

1. The application of Four Winds, Inc. doing business as People's Choice Transportation, Inc. to publish Supplement No. 1 to Passenger Tariff No. 6 on less-than-statutory notice is denied.

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

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
April 2, 2003.**

(S E A L)



ATTEST: A TRUE COPY

Bruce N. Smith
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

POLLY PAGE

JIM DYER

Commissioners

CHAIRMAN GREGORY E. SOPKIN
DISSENTING.

III. CHAIRMAN GREGORY E. SOPKIN DISSENTING:

1. Today the Commission denies the Application of People's Choice to increase its rate from \$10 to \$15 per passenger, apparently because the data provided by the applicant is based on the 2001 operating year, not 2002. The 2001 data demonstrates increased costs to People's Choice due to higher fuel prices and insurance premiums.¹ I believe the Commission could have taken administrative notice that both fuel and insurance costs have only increased, not decreased, since 2001. Therefore, today's decision merely delays the inevitable, while causing increased regulatory costs and more losses to a carrier who now must update cost figures for 2002.

¹ Advisory Staff did not question any of the cost figures provided by People's Choice, or indicate any belief that the cost numbers or any other figures provided were inaccurate.

2. More fundamentally, today's decision is flawed because there is a choice of carriers to customers who desire transportation from the Denver area to Black Hawk. The ever-nebulous "good cause" standard to raise rates on less-than-statutory notice is easier satisfied, in my opinion, where competitive choices exist.² Advisory staff confirmed that customers might easily use another carrier's services to travel to Black Hawk if they are price-sensitive to the \$5 increase.³

3. I believe that the good cause standard is met in this case based on the cost figures provided by the applicant, and in light of the competitive choices available to customers. For these reasons, I respectfully dissent.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

CHAIRMAN GREGORY E. SOPKIN

Commissioner

² I also note that the type of transportation offered by People's Choice to Black Hawk is for the primary purpose of gambling. This makes the transportation less of a necessity for most riders and, therefore, as a matter of policy, a rate increase is less problematic.

³ Although Staff indicated that most riders are reimbursed for their fare to Black Hawk through various casinos, I did not consider that fact as a basis for my dissent.